SUPREME COURT OF THE UNITED STATES.

No. 283.

MARY BARNEY, APPELLANT,

vs.

THE MAYOR AND CITY COUNCIL OF BALTIMORE, WILLIAM G. RIDGELY, ET AL.

APPEAL FROM THE CIRCUIT COURT OF MARYLAND.

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1 THE UNITED STATES OF AMERICA, *District of Maryland, to wit:*

At a circuit court of the United States for the fourth circuit, in and for the district of Maryland, begun and held at the city of Baltimore, on the first Monday in November, (being the third day of the same month,) in the year of our Lord one thousand eight hundred and sixty-two. Present, the honorable William F. Giles, judge of Maryland district; William Price, esquire, attorney; Washington Bonifant, esquire, marshal; Thomas Spicer, clerk.—Among others, were the following proceedings, to wit:

MARY BARNEY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE, William G. Ridgely, Anne C. Ridgely, Matilda L. Ridgely, Emily C. Hollingsworth, Samuel Ridout and Hester A. his wife, Matilda Chase, Frances C. T. Chase, Isaac Coale, Eliza M. Jackson, Samuel C. Coale, and Richard I. Crabb, ex'r of Anne Chase.

Be it remembered, that heretofore, to wit, on the twenty-eighth day of September, in the year of our Lord eighteen hundred and forty-eight, the said Mary Barney came into the circuit court here, sitting as a court of equity, by her solicitors, Grafton L. Dulany and

2 Charles F. Mayer, esquires, and filed in court here the following bill of complaint, to wit:

To the honorable the circuit court of the United States for the fourth circuit, in and for the district of Maryland, sitting in chancery:

Complaining shows to your honor, Mary Barney, a citizen of the State of Delaware, that her father, Samuel Chase, who, on the nineteenth day of June, in the year eighteen hundred and eleven, died intestate, did, under a deed from Daniel Bowley, dated the 24th day of August, A. D. 1796, and recorded among Baltimore county land records, in liber W G, No. W W, folio 616, &c., become rightfully seized and possessed, and so continued seized and possessed of a piece of land in what is now the city of Baltimore, binding on the south side of Water street, about 173 feet from the west side of Jones's Falls, to a point 160 feet from the east side of Market Space; thence running parallel with said west side of Jones's Falls 1,420 feet south, 12 degrees east, to the port warden's limits, on the south side of Barre street; then with said limits east 173 feet to the west side of Jones's Falls aforesaid; and thence running with said west side of Jones's Falls (being the west side as limited and established by the port wardens of Baltimore in December, A. D. 1794,) 1,420 feet, to the beginning, excepting from the land aforesaid a piece of ground for a street named Concord street, fifty feet wide, bounding on the western boundary of said land, and extending to the extreme southern boundary of said land. And

3 your oratrix further states that much of said land being marshy or under water, said Samuel Chase at great cost filled up the part in such condition as rendered it fast land; and further,

that said Chase, by an ordinance of the mayor and city council of Baltimore, approved the 23d March, 1802, entitled "An ordinance granting permission to Samuel Chase to extend his grounds herein described into the basin," obtained on his application permission of said corporation, the mayor and city council of Baltimore, to fill up and extend his said land the originally specified limits, that is, to the south side of Lee street, into the waters of the port of Baltimore, called as aforesaid "the basin;" the ordinance as aforesaid directing him, as a condition of said permission, to fill up to above ordinary high-water mark, and leave open "sixty feet as a public street" opposite to the end of Fleet street, on Fell's Point, and that he should convey to said corporation, as a public wharf, a piece of ground, part of that so to be as aforesaid extended, forty feet long and fifty feet broad at the south end, and part of Concord street aforesaid.

And your oratrix states that said land of said Samuel Chase was, conformably to the terms of said ordinance, extended to the south side of Lee street, and that the conditions aforesaid in favor of said corporation were fully performed.

4 And your oratrix now further states that the said Samuel Chase, having thus filled up and extended, again applied to said corporation and obtained permission from it for a further extension of his ground into the basin by an ordinance approved the 20th day of March, A.D.1804; the permission requiring him to leave between his ground, called his wharf, as so extended, and the northside of the channel, a space of not less than fifty feet, and also to fill up the spaces in his extension opposite to any street on Fell's Point, and to wharf in a good and substantial manner, and fill up above ordinary high-water mark any streets adjoining his wharf, and leave them open as public streets and highways. And your oratrix states of this last permission the said Chase availed himself by filling up and extending to about thirty feet into the basin beyond the south side of Lee street. And your oratrix refers to a copy of said deed of said Bowley to said Chase, herewith exhibited as part of this bill, marked A, and likewise refers to said ordinances and permissions of said corporation, as the same appear among the printed and published ordinances of said corporation, and as, by such reference, a part of this bill, and also to Exhibits C, D, E, F and G. And your oratrix also refers, as a part of this bill, to the plat herewith exhibited, marked B, as showing the lines of the said land of said Chase, conveyed by said

5 Bowley to him, and also the extent of the several fillings up aforesaid by said Chase under the permissions aforesaid. And your oratrix further states that under an act of the legislature of Maryland, passed in the year seventeen hundred and forty-five, and under the powers conferred on said corporation by the State of Maryland, the effect of said permission was to vest in said Chase and his heirs all the ground so extended into the basin from the limits of his land conveyed to him as aforesaid by said Bowley; and that under said act (of 1745, chapter 9) all lands made by any persons or bodies in front of his said land, or of any annexed to it by his said extensions, became the estate in fee of said Chase.

And your oratrix now further states that said Samuel Chase having rendered fast land his said property within the original and extended limits aforesaid, determined to lay out the whole or a greater part of it into lots, with Concord street on the western boundary thereof, and a street to be called Liffy street, along Jones's Falls, from the southern line of Pratt street, forty feet wide, binding said lots on the eastern side thereof; and your oratrix refers as part of this bill in respect of said Liffy street and Concord street, and as showing the course and location of said streets, to the said plat marked B.

6 And your oratrix now states that accordingly the said Samuel Chase did make a plat and lay down said Liffy street, and did, by two deeds, one to Samuel Chase, jr., dated the 27th day of August, A. D. eighteen hundred and eight, and the other to said Samuel Chase, jr., and Thomas Chase, dated the eighteenth day of June, eighteen hundred and eleven (1811,) convey to said Samuel Chase, jr., and said Thomas Chase, all his said Samuel Chase's land as extended as aforesaid, and as bounded by Liffy street as aforesaid; which ground so conveyed by said Samuel Chase to said Samuel Chase, jr., and Thomas Chase is designated on said plat marked B; to which for the location of said grounds your oratrix refers as part of this bill.

And your oratrix now states that the said Samuel Chase, soon after making the last one of said two deeds, in the year eighteen hundred and eleven, died intestate, as your oratrix has already stated; and that he left as his only heirs-at-law his childen following, to wit: your oratrix, Mary Barney, then the wife of William B. Barney, who, she states, died on or about the eighteenth of November, in the year eighteen hundred and thirty-eight; Eliza, now Eliza Coale, widow of Skipwith H. Coale, then Eliza Dungan, wife of George Dungan; Ann Chase and Matilda Ridgely, and said Samuel Chase, junior, and Thomas Chase. And your oratrix states that said Samuel Chase, junior, and Thomas and Matilda, have all departed this life; and that

7 said Matilda died intestate, leaving as her only heirs her children. William G. Ridgely, Ann C. Ridgely, Matilda L. Ridgely, Emily Hollingsworth, wife of Horatio Hollingsworth, and Samuel Chase Ridgley.

And your oratrix now states that the said Samuel Chase, junior, and Thomas Chase, proposing to carry out the view of their deceased father to give to the public the right of way for a street over the ground aforesaid set apart for Liffy street, addressed on the 11th day of March, in the year eighteen hundred and eighteen, (1818,) to the corporation aforesaid, the mayor and city council of Baltimore, a letter, of which, as part of this bill, your oratrix here exhibits a copy, marked S and T, by which they offered to said corporation, for condemnation as a "public highway forever," the said ground of Liffy street, on condition that the said street should be paved at the corporation's expense, and also the wharf, at the southern termination of it upon the water, to be kept by the corporation at all times in repair; and said Samuel and Thomas in their said proposal agreeing, further, to withdraw objections to the corporation's improving, as

then projected and afterwards accomplished, their property called now the City Block; such objections creating a difficulty in the way of such improvements as urged by said Samuel and Thomas, then, as above mentioned, the owners of the grounds conveyed to them by their said father, with water privileges incidental to them, and which such improvement would affect; the improvement being to
8 make fast land of property of the corporation, in great part covered by the waters of the basin or of its vicinity. Your oratrix states, further, that said offer of cession made in said letter of Samuel and Thomas Chase to the corporation was accepted by the mayor and city council of Baltimore, as is shown by the ordinance of said corporation approved the eighteenth (18th) day of March, in the year eighteen hundred and eighteen, (1818,) and entitled "a further additional supplement to an ordinance for the improvement of the harbor of Baltimore;" and your oratrix states that, in pursuance of said offer and acceptance, the said Samuel and Thomas Chase executed to the said corporation, and said corporation accepted from them, their conveyance of their interest in the ground aforesaid appropriated as above mentioned for Liffy street, to the end that the said ground should be a public highway and under the conditions prescribed by said letter of offer, which is referred to by said conveyance and made part of it; and your oratrix here refers, as part of this bill, to said conveyance in a copy thereof, marked D, being the deed of said Samuel and Thomas, dated the thirtieth day of August, in the year eighteen hundred and eighteen, and recorded among the land records of Baltimore county, in liber W G, No. 147, folio 48, &c.; and your oratrix states that, availing itself of said conveyance and of the interest that was thereby vested in it, the said cor-
9 poration took control and cognizance of said Liffy street ground as one of the public highways and streets of the city of Baltimore, and prepared, by levelling and paving the same, as and for such street; and further, by operations begun after receiving the said conveyance and under the same, filled up and made fast land of a large space of ground under the waters at and near and spreading eastward of the extremity of said Liffy street, at the south part of the ground known now as the City Block, in which work the said corporation was for a number of years engaged, and finally completed it in the year eighteen hundred and twenty-nine, and for this extension of ground so made by the corporation your oratrix again refers, as part of this bill, for this purpose, to said plat marked B, where the said created and extended ground is indicated. And your oratrix states and charges that from the year eighteen hundred and eighteen (1818) and from various periods, as the newly made ground aforesaid was formed and perfected by the corporation, up to this period, the corporation has received for wharfage from vessels, and for the use of the ground along the said Liffy street, on Jones's falls, and along all the grounds formed and extended as aforesaid by said corporation, large amounts of money; and has also received rents and profits for the grounds thus formed and extended; for no part of which has the said corporation ever accounted to your oratrix, or to any of her

10 co-heirs aforesaid of the said Samuel Chase, your oratrix's father, notwithstanding her and their tenancy in common with said corporation in the said rents and profits, and the avails for wharfage and other uses aforesaid of and from said grounds, formed as aforesaid by said corporation or otherwise; and your oratrix avers that she is a tenant in common in fee, with the said corporation and the other co-defendants in this cause, in the bed of Liffy street, or, as it is now called, Falls avenue, and in the whole of the City Block as it is delineated on said plat B, and that as such tenants in common she is entitled to one undivided sixth part of said street and block in fee; and your oratrix states that if it should be determined that she has no title or interest in any part of the said block from where it has been adjoined to and limited with the east side of the southern limitation of Liffy street, as it has been delineated on said plat from R to P, then the said block is obstructive of the rights of your oratrix on the east side of said street, where, but for said block, it would abut on the water of the basin from said R to P, for the distance of three hundred feet; but now, by reason of the erection of said block, the navigation of vessels and boats of all kinds to and from the east side of Liffy street, for the said space of three hundred feet, have been completely obstructed and absolutely destroyed, to her

11 great and irreparable injury, and your oratrix is otherwise greatly and irreparably injured and interrupted in the enjoyment of her rights and interests in said property, as a riparian possession situate on a navigable river; and your oratrix is advised that said block is a nuisance to her said property, and that she has the right to have the same abated and removed, or recognized by this court as her property and that of her co-heirs in common with said corporation.

And your oratrix states that the said corporation was created by the legislature—the general assembly of Maryland—(by act of 1796, chapter —,) and is now and always has been a corporation fixed and established and exercising its corporate powers in, and in that behalf limited to, the State of Maryland.

And your oratrix states that said Elizabeth Coale is a citizen of the State of Maryland, and that said Horatio Hollingsworth and Emily, his wife, are also citizens of that State; and that William G. Ridgely, Ann C. Ridgely, and Samuel Chase Ridgely are citizens of the District of Columbia.

And your oratrix states that she desires to hold in severalty her interest in the hereditaments, corporeal and incorporeal, aforesaid, but that without a sale of said hereditaments no partition whatsover in the premises is practicable; and further, that a sale and distribution, according to interest, of the proceeds of sale, will be for the

12 benefit of all parties as aforesaid concerned in the said hereditaments.

But your oratrix states and charges that said corporation refuses to render any account of the aforesaid rents, profits and avails, and to account in regard thereto with your oratrix or any of her co-

heirs aforesaid, and also to make partition, by sale or otherwise, of the interests held in common as aforesaid.

All which is much to the grievance of your oratrix and her said co-heirs, and contrary to equity. In tender consideration whereof, and forasmuch as your oratrix is remediless in the premises except in equity, where accounting between tenants in common is enforced, and partition by sale or otherwise as equitable is adjudged—to the end, therefore, that the corporation aforesaid, the mayor and city council of Baltimore, may answer the premises, and likewise said Eliza Coale, Horatio Hollingsworth, and Emily, his wife, and William G. Ridgely, Ann C. Ridgely, and Samuel Chase Ridgely, on oath and according to the course of equity and of this honorable court, as fully and particularly as if the premises were here particularly repeated and they thereto specially interrogated; and especially that the said mayor and city council of Baltimore may set forth and state fully,

13 item by item, the several sums of money received by them for or on account of wharfage, or rents from the said street and block; and that said corporation be required and adjudged and decreed to account with your oratrix and said co-heirs of and concerning the aforesaid rents and profits and avails, and to pay over to them and her respectively, what to each may on such accounting appear to this court to be due; and that incorporeal hereditaments of wharfage, and said lands formed and created and extended, may, for partition as aforesaid, be sold, and the proceeds be distributed according to the interest of all the said parties respectively therein; or else that, so far as the said block is concerned, the same may be abated, and the obstruction which it interposes to the navigation of boats to and from the said street may be entirely removed; and that your oratrix may have such further and other relief in the premises as to your court may seem proper, may it please your honors to grant to your oratrix the writ of the United States of America of subpœna, directed to said corporation and to said Eliza Coale, Horatio and Emily Hollingsworth, William G. Ridgely, Ann C. Ridgely, and Samuel Chase Ridgely, commanding them by a certain day to be in this

14 court to answer the premises and therein to stand to and abide by such decree as to your court shall see proper.

G. L. DULANY,
CHARLES F. MAYER,
Solicitors for Complainant.

The exhibits referred to in the aforegoing bill are as follows, to wit:

(See admissions, page 68.)

15 Whereupon issued subpœna as prayed for in said bill, in form following, to wit:

THE UNITED STATES OF AMERICA, *District of Maryland, to wit:*

To the mayor and city council of Baltimore, and to Eliza Coale, Horatio Hollingsworth, Emily Hollingsworth, William G. Ridgely, Ann C. Ridgely, and Samuel Chase Ridgely, greeting:

[SEAL.] You and each of you are hereby commanded that, all excuses

and delays set aside, you be and appear before the circuit court of the United States for the fourth circuit in and for the Maryland district, to be held at the city of Baltimore on the first Monday in November next, to answer unto the bill of complaint of Mary Barney, a citizen of the State of Delaware, in the said court exhibited against you. Hereof you are not to fail at your peril.

Witness the honorable Roger B. Taney, Chief Justice of our Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and forty-seven.

Issued 26 September, 1848.

G. L. D. THO. SPICER, *Cl'k Cir. C't.*
C. F. M.

16 At which said first Monday in November, to wit, in the year last aforesaid, the marshal of the Maryland district, to whom the same was delivered to be served, made return thereof to the court here, thus indorsed, to wit: "Summoned."

And afterwards, to wit, on the 13th day of March, in the year of our Lord 1850, the mayor and city council of Baltimore appeared in court by Benjamin C. Prestman, esquire, their attorney, and filed in court here the following answer, to wit:

To the honorable the judges of the circuit court of the United States for the fourth circuit, in and for the district of Maryland, sitting in chancery:

The answer of the mayor and city council of Baltimore to the bill of complaint of Mary Barney, in this honorable court exhibited.

These respondents, now and all times hereafter saving and reserving all and every manner of advantage and benefit of exception to the many defects, both in form and substance, of the said bill, in answer thereunto nevertheless, or to such parts thereof as they are advised it is material that they should answer, say: that they admit the execution of Daniel Bowley of the deed of the 24th day of August, 1796, recorded among the land records of Baltimore county court, in liber W G, No. W W, folio 616, &c., of which the complainant has exhibited a copy with her said bill of complaint, marked A,
17 and to which, for greater certainty as to its contents, these respondents refer. These respondents having no knowledge thereof, neither admit nor deny that of the land conveyed by the deed from Samuel Bowley to Samuel Chase, being marsh or under water, was filled up in whole or in part as is alleged in said bill of complaint. These respondents admit the passage by the mayor and city council of Baltimore of the ordinance approved March 23d, 1802, entitled An ordinance granting permission to Samuel Chase to extend his ground herein described, in the basin, for the of the provisions and conditions of which these respondents pray leave to refer to said ordinance, which they are prepared to produce whensoever the same may be required. These respondents having no knowledge, neither admit nor deny that the said Samuel Chase, conformably to the terms of said ordinance, extended into the south side of Lee street, or that

the conditions in said ordinance contained in favor of these respondents were fully performed, but leave the complainant to the proof thereof.

These respondents admit the passage of an ordinance approved 20th day of March, 1804, referred to by said bill, for the terms and conditions of which they pray leave to refer to the ordinance itself, and which they are prepared to produce whenever the same may
18 be required by the honorable court, but of the fact alleged in the said bill, that the said Samuel Chase availed himself thereof by filling up and extending to about thirty feet into the basin beyond the south line of Lee street, these respondents have no knowledge, and neither admitting or denying the same, leave the complainant to the proof thereof. Nor do these respondents admit that the plat thereof exhibited by the complainant, and marked B, correctly shows the land of said Chase conveyed by said Bowley, and the extent of the fillings up made by him; and they deny that under the act of the general assembly of Maryland, 1745, chapter 9, the effect of said fillings up, even if made, under the permission alleged, was to vest in the said Chase and his heirs all the ground extended into the basin from the limits of the land conveyed to him by said Bowley. These respondents admit that on the 27th day of August, 1808, the said Samuel Chase executed and delivered to Samuel Chase, jr., the deed of conveyance referred to in complainant's bill, and that on the 18th day of June, 1811, said Chase executed and delivered to Samuel Chase jr., and Thomas Chase, the deed likewise referred to in the said bill, for the terms and effect of which said conveyances these respondents pray to refer to the deeds themselves, whenever the same are produced by the complainants to this honorable court.

19 These respondents admit the death of the said Samuel Chase, as they believe intestate, and the persons named in the complainant's bill are his heirs-at-law. These respondents admit that on the 11th day of March, 1818, Samuel Chase, jr., and Thomas Chase addressed to the mayor and city council of Baltimore a letter, of which the complainant has exhibited a copy with her said bill, marked S & T, and that on the 18 day of March, 1818, the ordinance mentioned in said bill, entitled A further additional supplement to an ordinance for the improvement of the harbor of Baltimore, was passed and approved, for the terms whereof these respondents pray leave to refer to the ordinance itself, which they are ready, whenever required, to produce; and they likewise admit the execution and delivery by the said Samuel Chase, jr., and Thomas Chase, on the 30th day of August, 1818, of the deed of conveyance, of which a copy is exhibited by said complainant with her said bill, marked D, and which was accepted by the mayor and city council of Baltimore, but they deny that the said corporation availed itself of said conveyance for the purpose of taking control and cognizance of Liffy street, as one of the public highways and streets of the city of Baltimore, by levelling and paving the
20 same; and they also deny that by operations after receiving the said conveyance, and under the same, filled up and made fast land of a large space of ground under the waters, at and near and

spreading eastward of the extremity of said Liffy street, at the south part of the ground now known as the City Block, as is alleged in said bill of complaint; but these respondents aver that the said improvements whatever they are, as well as the control of the said street called Liffy street, made and assumed by the said corporation, were so made and assumed by title other and paramount to that held by the said Samuel Chase, jr., and Thomas Chase, the said street called Liffy street having been dedicated to the public use as a street or highway by Samuel Chase the elder, long before the conveyance made by him to Samuel Chase, junior, and Thomas Chase hereinbefore referred to, and the extension and improvement made upon the line thereof having, by virtue of such dedication and acts of assembly, to the benefit of said corporation by which they were made. In evidence of which these respondents pray leave to refer to the leases and deeds of conveyance herewith exhibited, marked —, and to the provisions of said act of assembly of 1745, chapter 45, and the acts supplementary thereto, and other acts of assembly thereto re-
21 lative. And these respondents admit it to be true that the said corporation were for many years engaged in making such land of the ground now known as the City Block, which they completed many years ago, and which, for all the time it was in progress and since, said corporation has used, occupied, and enjoyed as its own, claiming title thereto, and having, as these respondents are advised, a legal and complete title so to use, occupy, and enjoy it; that such use, occupation, and enjoyment have been had with the knowledge of everybody, and with the acquiescence of everybody, the complainants among others, and without molestation from anybody. And these respondents insist upon such use and occupation and enjoyment by said corporation, and upon such acquiescence by the complainant, and upon the lapse of time since the same was so occupied, used, and enjoyed under a claim of title as a bar to the demand of the complainant if she have any right, such demand being stale and barred by limitation; and these respondents pray the like benefit of this defence as if the same were pleaded in bar to said demand and to every part thereof of said complainant as set out in her said bill of complaint, and to the relief thereof prayed. And these respondents admit
22 that from the year 1818, up to this period, said corporation has been from time to time, without molestation, received compensation from many persons for the use of the wharves on said street. called Liffy street, and of said ground known as the City Block. But they aver that the same was so received under claim of ownership and title of the said property, and was publicly known to be so received and claimed. And these respondents insist upon such continued enjoyment as a bar to the demand of the complainant of any account thereof, even if she could otherwise rightly demand the same, which these respondents deny, and pray that they may have the like benefit of this defence as if the same were pleaded in bar to the complainant's prayer for an account set out in her said bill of complaint.

And these respondents, further answering, deny that said complainant is tenant in common with the mayor and city council of Baltimore

of the wharves and City Block aforesaid, and that said City Block is a nuisance, or any obstruction to any property, rights, or interest of the complainant which this honorable court has any authority to abate or remove. These respondents admit that the corporation of Baltimore was created by the act of the general assembly of
23 Maryland, of 1796, ch. 68, and is now regulated and controlled by said charter and its various supplements from time to time passed by the said general assembly, and they likewise admit that their co-defendants in said bill named have their residence as is therein stated. And these respondents aver that the complainant, and those under whom she claims, have long since alienated all interest whatever in the lots bordering on the streets and avenues aforesaid, and that none of said lots are now held by them, or any of them.

[SEAL.] ELIJAH STANSBURY, *Mayor.*

And afterwards, to wit, on the second day of May, in the year of our Lord 1851, the said Mary Barney, by her solicitors aforesaid, files in court here the following replication, to wit:

Circuit court of the United States, equity side.

BARNEY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE.

The replication of Mary Barney, the complainant, to the answer of the mayor and city council of Baltimore, filed in this court.
24 This replicant, saving and reserving to herself all and all manner of advantage to the manifest insufficiencies of the said answer, for replication thereunto, saith that she will aver and prove her said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the defendant is uncertain, untrue, and insufficient to be replied to by this replicant; without that, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied to, confessed and avoided, traversed or denied, is true; all matters and things this repliant is and will be ready to aver and prove, as this honorable court shall direct, and humbly prays as in and by her said bill she hath already prayed.

G. L. DULANEY & CHAS. F. MAYER,
Solicitors for Complainant.

And afterwards, to wit, on the 12th day of May, in the year of our Lord 1852, the said Wm. G. Ridgely, Ann C. Ridgely, and Samuel C. Ridgely, and Eliza Coale, appear in court here, by William Meade Addison, esquire, their solicitor, and files in court here the following answer, to wit:

To the honorable the circuit court of the United States for the fourth circuit, in and for the Maryland district, sitting in equity:

25 The answer of William G. Ridgely and Ann C. Ridgely to the bill of complaint exhibited by Mary Barney in this hono-

rable court, against the mayor and city council of Baltimore and these respondents and others.

These respondents, reserving to themselves the benefit of exception to the many errors of said bill, nevertheless, for answer thereto, answering say, that they admit the matters of fact and allegations contained in said bill to be true as therein stated, and are willing that such decree and redress as is therein prayed may be passed and allowed by this honorable court as to it may seem just and right, and that these respondents may be hence dismissed with their reasonable costs in this behalf sustained; and, as in duty, &c.

W. M. ADDISON,
Solicitor for Defendants.

It is agreed to admit the above answer without oath.

G. L. DULANEY,
Solicitor for Complainant.

FORT SUMTER, CHARLESTON HARBOR, S. C.,
October 9, 1851.

To the honorable the circuit court of the United States for the
26 fourth circuit, in and for the Maryland district, sitting in equity:

The answer of Samuel Chase Ridgely to the bill in this court, exhibited by Mary Barney, against the mayor and city council of Baltimore, and others, and among them this respondent, saving the benefit of all exceptions, this defendant answering says: that he admits that the heirs of Samuel Chase the elder are entitled to the estate and to the account claimed in the premises, the complainant, like this defendant, being one of those heirs, and he accordingly prays a decree in favor of all the heirs, and to the extent insisted in said bill, and beyond that, if this honorable court shall so deem the equity of the case to require or warrant.

SAMUEL CHASE RIDGELY.

W. M. ADDISON, *Solicitor.*

It is agreed to admit the above answer without oath.

G. L. DULANEY,
Solicitor for Complainant.

To the honorable the circuit court of the United States for the fourth circuit, in and for the Maryland district, sitting in equity:

The answer of Eliza Coale to the bill exhibited by Mary Barney in your court, against the mayor and city council of Baltimore
27 and this respondent and others.

This defendant, saving to herself the benefit of all exceptions to said bill, answering it, says that she admits that she and the complainant and the others, heirs of Samuel Chase the elder, are entitled to the estate and to the account claimed in said bill; and she

prays that a decree corresponding to such rights, and to enforce all that is due and should be awarded in the premises, may pass accordingly.

W. M. ADDISON,
Solicitor for Def't, Eliza Coale.

It is agreed to admit the above answer without oath.
G. L. DULANY, *Compl't's Sol'r.*

And afterwards, to wit, on the 13th day of May, in the year of our Lord 1852, the said Mary Barney, by her solicitor aforesaid, filed in court here the following petition, to wit:

Circuit court of the United States for the fourth circuit in and for the district of Maryland.

MARY BARNEY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE.

To the honorable the judges of said circuit court of the United States:

28 The petition of Mary Barney, complainant in the above case, respectfully states to your honors that through mistake, or rather from want of information, Ann Chase, daughter of the late Judge Samuel Chase, of the city of Baltimore, mentioned in the proceedings in the above cause, was accidentally omitted as a party defendant in said bill, when, as your petitioner is advised, she is interested in the object of said bill, and a necessary party defendant in said cause.

Wherefore your petitioner prays that she may have leave to amend said bill so as to make the said Ann a party defendant thereto, and that she may be directed to answer the same, as also this petition, and to that end that the United States writ of subpœna may be issued, directed to said Ann Chase, of the city of Annapolis, commanding her to be and appear in this honorable court on some day and under a certain penalty therein to be named, to stand, to abide by and perform such decree in the premises as it may seem to your honors just and equitable to pass thereon. And, as in duty bound, your petitioner will ever pray, &c.

G. L. DULANY, *Sol'r for Petitioner.*

29 Whereupon the court passed the following order, to wit:

1852, May 14.—Leave to amend is granted, as prayed for, and when the amendment shall be made the compl't will be entitled to her subpœna, as prayed for.

J. GLENN.

And afterwards, to wit, on the 12 day of July, in the year of our Lord 1852, the said Mary Barney, by her solicitors aforesaid, files in court here the following amended bill, to wit:

In the circuit court of the United States for the fourth circuit for the Maryland district, in equity.

MARY BARNEY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE and others.

To the honorable the circuit court aforesaid:

The amended bill of complaint of Mary Barney in the above cause respectfully shows, that she heretofore filed her original bill in this cause claiming an undivided interest in certain real estate situate in Baltimore, and in the rents, issues, and profits therefrom issuing, and alleging that the defendant, the corporation of the mayor and city council of Baltimore, is entitled to a portion, undivided and in
30 common with your complainant, of said real estate, and praying that said corporation may account to the complainant for her share of all such rents, issues, and profits received by said corporation, and that said property may be sold and the proceeds divided among the parties entitled to said real estate in common with your complainant, as by said bill will more particularly appear; all which matters and all else in said bill set forth your complainant refers to and prays may be made part of this amended bill. And so averring, your complainant further shows that, as by her petition is shown, she omitted to make a party defendant to said bill Ann Chase, of Anne Arundel county, in the State of Maryland; wherefore the court ordered that said original bill might be amended in respect of said omission, said Ann Chase being, as your complainant avers, one of the persons entitled to an undivided share of said real estate, and to an account from said corporation of said rents, issues, and profits.

And your complainant prays, accordingly, that subpœna issue to the said Ann Chase, commanding her by a certain to be in this court to answer said original and this amended bill on oath, and in the premises to abide by such orders and decrees as to this court may seem proper, to the end that your complainant may have such
31 relief as is prayed for by said original bill, and all further and other relief as to this court may seem proper, whether as regards said complainant or said Ann Chase, or any of the others interested with your complainant in common in said real estate.

G. L. DULANY,
CHARLES F. MAYER,
Sol'rs for Compl't.

Whereupon issued subpœna as prayed for in said amended bill in form following, to wit:

THE UNITED STATES OF AMERICA, *District of Maryland, to wit:*

To Ann Chase, of Anne Arundel county, greeting:

You are hereby commanded that, all excuses and delays set aside, you be and appear before the circuit court of the United States for the fourth circuit in and for the Maryland district, to be held at the

city of Baltimore on the first Monday in November next, to answer unto the amended bill of complaint of Mary Barney, a citizen of the State of Delaware, in the said court exhibited against you. Hereof you are not to fail at your peril.

Witness the honorable Roger B. Taney, Chief Justice of the Supreme Court, the first Monday in December, in the year of our Lord
32 one thousand eight hundred and fifty two.

Issued 12th July, 1852.

[SEAL.] THO. SPICER, *Cl'k Cir. C't.*

G. L. D.
C. F. M.

Which said subpœna is thus indorsed, to wit:

Service admitted 12th July, 1852.
W. M. ADDISON, *Sol'r for Ann Chase.*

And afterwards, to wit, on the 16th day of July, in the year of our Lord 1852, Ann Chase appears in court here by William M. Addison, esquire, her attorney, and files the following answer, to wit:

The answer of Ann Chase to the original and amended bills of Mary Barney, exhibited in this court, against respondent and others.

In the circuit court of the United States, Maryland district, in equity.

MARY BARNEY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE and others.

This respondent, saving to herself the benefit of all exceptions, &c., &c., &c., answering, says she all the matters and things set
33 forth in said original and amended bills, and she prays the passage of a decree in favor of the heirs of said Samuel Chase as is sought for in the original bill in this cause, and such as to this honorable court may seem required by the principles of equity and justice, and prays leave to be hence dismissed with her costs, &c., &c.

W. M. ADDISON, *for Def'ts.*

The above answer admitted without oath.

G. L DULANY, *Sol'r for Compl't.*

And afterwards, to wit, on the 15th day of December, in the year of our Lord 1852, it was ruled by the court here that further proceedings be had in this case by the first day of the next term.

And afterwards, to wit, on the 1st day of May, in the year of our Lord 1853, the said Mary Barney, by her solicitors aforesaid, files in court here the following suggestion, to wit:

Circuit court of the United States for the Maryland district, in equity.

MARY BARNEY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE
and others.

34 Mr. SPICER: Please enter suggestion of the death of Mrs. Eliza Coale, one of the defendants in the above case.

G. L. DULANY, *Sol'r for Compl't.*

And afterwards, to wit, on the 17th day of September, in the year of our Lord 1853, the said Mary Barney, by her solicitors aforesaid, filed in court here the following bill of revivor, to wit:

Circuit court of the United States for the Maryland district, in equity.

MARY BARNEY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE
and others.

To the honorable the circuit court of the United States aforesaid:

The bill of revivor of Mary Barney, complainant in the above cause, respectfully shows, that since the filing of the original bill in this case Anne Chase, one of the defendants in this case, and since the filing of her answer to said bill, has departed this life, having first made her last will and testament, by which she devised the property (with other land) in controversy in this case to her three nieces, Hester A. Chase, Matilda Chase, and Frances Catharine Townley Chase,
35 of the city of Annapolis, in the State of Maryland.

To the end, therefore, that the said Hester A. Chase, Matilda Chase, and Frances Catharine Townley Chase may answer the premises and show cause, if any they have, why said cause should not be revived against them, may it please this honorable court to cause subpœna to be issued to the said Hester A. Chase, Matilda Chase, and Frances Catharine Townley Chase, directed to them at the city of Annapolis and State aforesaid, to answer this bill on oath, and to stand to and abide by such order and decree as may be passed in the premises.

G. L. DULANY,
C. F. MAYER,
Sol'rs for Compl'ts.

Whereupon issued subpœna as prayed for in said bill of revivor, in form following, to wit:

THE UNITED STATES OF AMERICA, *District of Maryland, to wit:*

To Hester A. Chase, Matilda Chase, and Frances Townley Chase, greeting:

You are hereby commanded that, all excuses and delays set aside, you be and appear at the clerk's office of the circuit
36 court of the United States for the fourth circuit in and for the

Maryland district, on the first Monday in October next, to answer unto the bill of revivor of Mary Barney, exhibited in the said circuit court, and to show cause, if any they have, why said cause should not be revived against them. Hereof they are not to fail at their peril.

Witness the honorable Roger Brooks Taney, Chief Justice of our Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and fifty-two.

Issued 17 September, 1853.

[SEAL.] THO. SPICER, *Cl'k Cir. C't.*

G. L. D.

At which said first Monday in October, to wit, in the year of our Lord 1853, being the return day of the aforegoing subpœna, the marshal of the Maryland district aforesaid, to whom the same was delivered to be served, made return thereof to the court here, thus indorsed, to wit:

Summoned. D. VANCE. *Dep'y Marshal.*

And afterwards, to wit, on the 7th day of March, in the year of our Lord 1855, comes into court here in his proper person Robert Gover, of the city of Baltimore, and who by the court here is considered good and sufficient, and undertakes for the said Mary Barney that if the said Mary Barney, in the plea aforesaid, shall be non-
37 suited, or judgment therein be given against her, then the said Mary Barney shall pay unto the aforesaid respondents all such costs and charges by them about their defence in this part sustained as shall be adjudged unto the said respondents by the court here, or that he, the said Robert Gover, will do the same for her.

And afterwards, to wit, on the 1st day of May, in the year of our Lord 1858, the said Mary Barney, by her solicitors aforesaid, filed in court here the following bill of revivor, to wit:

Circuit court of the United States for the Maryland district, in equity.

MARY BARNEY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE and others.

To the honorable Roger Brooks Taney and William F. Giles, judges of the said court:

The bill of revivor of Mary Barney, complainant in the above cause, respectfully shows, that since the filing of the original bill therein, Eliza Coale, one of said defendants, has departed this life intestate, after having filed her answer in said cause, leaving at her death Eliza M. Jackson, widow, Isaac Coale, and Samuel Chase Coale, her only children and heirs-at-law, all being citizens of the State of
38 Maryland. To the end, therefore, that said Elizabeth M. Jackson, Isaac Coale, and Samuel Chase Coale may answer the premises and show cause, if any they have, why said cause shall not be revived against them, may it please this honorable court to

cause subpœna to be issued to the said Eliza M. Jackson, Isaac Coale, and Samuel Chase Coale, directed to them at Harford county, State of Maryland, to answer the premises on oath and to stand to and abide by such decree as may be passed in the premises.

G. L. DULANY and
CHAS. F. MAYER,
Sol'rs for Complainants.

Whereupon issued subpœna as prayed for in said bill of revivor, in form following, to wit:

THE UNITED STATES OF AMERICA, *District of Maryland, to wit:*

To Eliza M. Jackson, Isaac Coale, and Samuel Chase Coale, greeting:

You and each of you are hereby commanded that, all excuses and delays set aside, you be and appear in the clerk's office of the circuit of the United States for the fourth circuit in and for the Maryland district, on the first Monday in June next, to answer unto the bill of revivor of Mary Barney in the said court exhibited
39 against you. Hereof you are not to fail, as you will answer the same at your peril.

Witness the honorable R. B. Taney, Chief Justice of our Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and fifty-seven.

Issued 1st May, 1858.

[SEAL.] THO. SPICER, *Cl'k Cir. C't.*

G. L. D.

Which said subpœna is thus indorsed, to wit:

Service of the within subpœna admitted.

WM. MEADE ADDISON,
for the within Def'ts.

And afterwards, to wit, on the 22d day of March, in the year of our Lord 1859, the following agreement was filed in court here, to wit:

Circuit court of the United States for the Maryland district.

MARY BARNEY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE
and others.

It is agreed that a commission shall issue to Henry R. Dulany to take depositions in the above cause.

G. L. DULANY,
Sol'r for Compl't.
J. MEREDITH,
Sol'r for the Mayor and City Council.

40 Whereupon commission issued accordingly.

And afterwards, to wit, on the 5th day of May, in the year of our Lord 1859, the complainant, by her solicitors aforesaid, filed in court here the following petition, to wit:

In equity in the circuit court of the United States for the fourth circuit for the Maryland district.

MARY BARNEY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE and others.

To the honorable the circuit court aforesaid:

The petition of the complainant respectfully shows that the original bill in this cause alleges by mistake that Samuel C. Ridgely, a defendant therein named, was, at filing of said bill, a citizen of the District of Columbia, when in fact he was then, and has ever since been, and now is, a citizen of the State of Maryland. And your petitioner asks leave of the court to amend her said bill in the said particular of said Ridgely's citizenship, and also in stating that Hester Ridgely, one of said defendants, has intermarried with Dr. Samuel Ridout, a citizen of Maryland.

And further, the complainant, Mary Barney, states that since said bill was filed William G. Ridgely and Ann C. Ridgely, two of the
41 defendants in said bill named, have, by deed bearing date the eighth day of June, in the year eighteen hundred and fifty-eight, duly executed, acknowledged, and recorded, conveyed to said Samuel C. Ridgely all their right, title, and interest to and in the property in the proceedings mentioned and in controversy in this cause. And the complainant asks leave of the court, by way of supplement to her said original , to state the fact of said conveyance. And further, the complainant prays the order of the court dismissing the said bill as to the said William G. Ridgely and Ann C. Ridgely, who have, as aforesaid, ceased to have any interest in this cause. And the complainant asks leave of the court to file accordingly in the premises her amended and supplemental bill.

G. L. DULANY,
CHARLES F. MAYER,
Solicitors of Complainant.

Whereupon the court passed the following order, to wit:

May 5, 1859.—Let the amendment be made as prayed for in the foregoing petition.

WILLIAM F. GILES.

And afterwards, to wit, on the 6th day of May, in the year of our Lord 1859, the said complainant, by her solicitor aforesaid,
42 filed in court here the following suggestion, to wit:

Circuit court of the United States, district of Maryland.

MARY BARNEY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE and others.

Mr. SPICER: Please enter suggestion of the death of Horatio G. Hollingsworth.

G. L. DULANY, *for Compl't.*

Which said suggestion was entered accordingly.

And afterwards, to wit, on the 4th day of June, in the year of our Lord 1859, the order of court passed the 5th May, 1859, granting leave to amend bill, stricken out by order of court.

And afterwards, to wit, on the 5th day of July, in the year of our Lord 1859, the said Mary Barney, by her solicitor aforesaid, filed in court here the following petition, to wit:

In equity in the circuit court of the United States for the fourth circuit for the Maryland district.

MARY BARNEY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE.

43 To the honorable the circuit court aforesaid: The petition of the complainant respectfully states to your honors, that the original bill in this cause by mistake alleges, that Samuel Chase Ridgely, a defendant therein named, was at the filing of said bill a citizen of the District of Columbia, when he was in fact, and has ever since been, a citizen of the State of Maryland, having been born in that State, and never having surrendered or abandoned his residence or citizenship therein, (which will appear by the paper herewith filed, marked petitioner's exhibit A, as a part of this petition.)

Your petitioner further states, that since the filing the original bill in this cause, Anne Chase, one of the defendants therein, has departed this life, first leaving a last will and testament, by which she devised her estate to her nieces, Hester A. Chase, Matilda Chase, and Catharine Townley Chase, all citizens of the State of Maryland and residents of Anne Arundel county, and that said Hester A. Chase has intermarried with Dr. Samuel Ridout, of said last-mentioned county, who is also a citizen of the State of Maryland.

And further, the complainant, Mary Barney, states, that since said bill was filed William G. Ridgely and Ann C. Ridgely, two of the defendants mentioned in the original bill in this cause, have by deed of the eighth day of June, in the year eighteen hundred and
44 fifty-eight, duly executed and recorded, conveyed to said Samuel C. Ridgely all their right, title, interest and estate to and in the property in the proceedings mentioned, and in controversy in this cause; and the complainant asks leave to file an amended and supplemental, containing the allegation of the aforesaid

facts in regard to the particulars hereinbefore stated. And further, the complainant prays the order of this court dismissing the said bill as to the said William G. Ridgely and Anne C. Ridgely, who have, as before stated, ceased to have any interest in this cause or the decision thereof.

And the complainant prays leave of this honorable court to file accordingly, in the premises, her amended and supplemental bill.

The complainant further states to your honor, that in the year 1854 her solicitor became, on the first of March of that year, city counsellor, when the term of office of the previous counsel for the city, Benjamin C. Presstman, esq., ceased, when he, with his colleague, John Nelson, esq., no longer regarded themselves as solicitors in the above cause; that the solicitor of the complainant, not being able to act in said cause on behalf of the said corporation, in his character of city counsellor, because of his previous employment by the com-
45 plainant, informed the then mayor of the city, Samuel Hinks, esq., of such disability, and requested that some solicitor might be employed to appear for the city and act on its behalf in the above cause; that, for some reason or omission of which the complainant is ignorant, no solicitor was appointed as had been requested; that some time after the election of the present mayor of the city, complainant's solicitor applied again to him, with a request that he would employ some solicitor to attend to the city's interest in said cause, and that it might be proceeded in and brought to a conclusion; that accordingly the present solicitors, Mr. Meredith and Mr. Nelson, were appointed to act in that character on behalf of said corporation; that soon after this employment, the complainants applied to the first named solicitor, and entered into a negotiation with him as to an amendment of the pleadings in the cause and the admission of facts to be used as evidence therein, that it might be brought to a more speedy conclusion than could be hoped for by having everything disputed; that complainant's solicitor was requested to put in writing the amendment of the pleadings which he desired to have made, and the
46 facts which he wished admitted; that accordingly he drew up an agreement to waive errors in pleading and a statement of facts which he wished admitted; that notwithstanding his efforts at various times to obtain the facts which could be proved, he was delayed in getting the requisite information, and after he had succeeded and submitted it to the said solicitor, it was some time before he could consult with his colleague so as to give a final reply, which was that the facts could not be admitted in the whole as desired, nor an agreement to waive errors in pleading.

It was agreed, however, that a commission should issue to take testimony, under which testimony has been taken, and will be further proceeded in. The complainant most anxiously desires that this cause shall be brought to a hearing as soon as possible, and asks no amendment with a view to delay, and, on the contrary thereof, is willing to submit to the passage of any order that the court may think it just and

proper to pass in the premises, with a view to speed the said cause on its way.

CHARLES F. MAYER,
G. L. DULANY,
Sol'rs for Petitioners.

47 G. L. Dulany, one of the solicitors in the above cause, makes oath in open court, that the complainant therein does not reside in the State of Maryland; that he has personal knowledge of the facts stated in the foregoing petition as to the employment of solicitors of defendant and the negotiations had with them, and that the same are true as therein stated; that he has information of all the other facts stated in said petition, and that he believes the same to be true, as also all other matters and things stated in said petition, according to his information, knowledge and belief.

Sworn to in open court, this 5th July, 1859.

THOMAS SPICER, *Cl'k Circ't C't.*

Complainant's exhibit A, referred to in foregoing petition, is as follows, to wit:

The following is a synopsis of the military service of Brevet Major S. C. Ridgely, captain 4th artillery:

Brevet Major S. C. Ridgely graduated July, 1831; was on duty at the Military Academy from July 14, 1831, to August 28, 1839; joined his regiment August 28, 1839, and served with it until Feb-
48 ruary 8, 1843; was acting judge advocate of the army from February 8, 1843, to March, 1847; commanded Fort McHenry, Maryland, from March 13, 1847, to May, 1847; served with his regiment from May 8, 1847, to January 6, 1848; was acting as judge advocate to court of inquiry in the case of Major General Pillow, and on leave from January 6, 1848, to September 28, 1848; served with his regiment from September 28, 1848, to June 5, 1849; on leave from June 5, 1849, to November 22, 1849; served with his regiment from November 22, 1849, to July 24, 1852; on leave from July 24, 1852, to October 17, 1852; served with his regiment from October 17, 1852, to August 1, 1853; on leave from August 1, 1853, to September 29, 1853; served with regiment from September 29, 1853, to August 30, 1854; absent as member of board of officers at West Point from August 30, 1854, to January 17, 1855; served with regiment from January 17, 1855, to April 13, 1855; on leave from April 13, 1855, to May 31, 1855; served with regiment from May 31, 1855, to August 17, 1855; absent on court-martial duty from August 17, 1855, to December 16, 1855; served with regiment from December 16, 1855, to January 2, 1856; absent on court-martial duty from January 2, 1856, to January 19, 1856, and on leave of absence from January 19, 1856, to June 17, 1856; served with his regiment from June 17, 1856, to September 25, 1856; absent with leave from September 25, 1856, to October 3, 1856,
49 with regiment from 3d to 20th October, 1856; absent with leave for 30 days from October 20, 1856, and absent sick from termination of said 30 days; leave to the present time.

During the whole of this period he was actually under the orders of his military superiors, and subject to the Articles of War; and at all times when on duty, and not on leave of absence, his residence and personal habitation was controlled by them and not by himself;

S. COOPER, *Adjutant General.*

A. G. Office, April 7, 1859.

And afterwards, to wit, on the 16th day of June, in the year of our Lord 1860, the said Mary Barney, by her solicitors aforesaid, filed in court here the following amended bill, to wit:

In equity in the circuit court of the United States for the Maryland district.

MARY BARNEY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE AND OTHERS.

To the honorable the circuit court aforesaid: The said Mary Barney, complaining, by way of amendment of the original bill and supplementary to it and the supplements thereof, by leave of
50 this honorable court, shows that your complainant heretofore in this cause exhibited her bill original, seeking and praying partition and an account of rents and profits of and from the real estate mentioned in said bill, and therein alleged and charged to be the property in tenancy in common of your complainant and of the defendants in this cause; and your complainant, referring to said bill, prays that the same may be deemed and taken as part of this amended and supplemental bill for all that it sets forth and prays.

But complainant, by way of amendment and supplement to said bill, states, that since the filing thereof Anne Chase, one of the defendants therein mentioned, has departed this life, first having made her last will and testament, by which she devised all her right, interest, and estate to the property and claims in dispute in this cause to her three nieces, Hester A. Chase, Matilda Chase, and Catharine T. Chase, all citizens of the State of Maryland, and residing in Anne Arundel county; that said Hester Ann Chase has intermarried with a certain Dr. Samuel Ridout, who also resides in the said county, and is likewise a citizen of the State of Maryland. And your complainant further shows that all the defendants to said original bill are citizens of the State of Maryland, with the exception of the said William G. Ridgely and Anne C. Ridgely.

51 This complainant further shows that William G. Ridgely and Anne C. Ridgely, two of the defendants in this case, and who reside in the District of Columbia, did, by deed of bargain and sale, bearing date the 8th day of June, A. D. 1858, duly executed, acknowledged, and recorded, convey all their estate and interest to the property in dispute in this cause to their brother, Samuel C. Ridgely, a citizen of the State of Maryland, and a defendant in this cause, although it had been mistakenly alleged in said bill that he was a citizen of the District of Columbia, which said deed is herewith filed as part of this bill, marked "Deed B."

That since the execution of the said deed, on the 8th June, 1858, the said Samuel C. Ridgely has departed this life, having first made his last will and testament, by which he devised all his right, title, and estate to the land and property in dispute in this cause, in fee-simple, to the said William G. Ridgely, Matilda L. Ridgely, Anne C. Ridgely, and Emily Hollingsworth. That the said William G. Ridgely, Matilda L. Ridgely, and Anne C. Ridgely did, by deed duly executed, acknowledged and recorded, convey, in fee-simple, to John G. Proud, junior, of the city of Baltimore, and who is also a citizen of the State of Maryland, all their right, title, estate and claim in and to the property mentioned in this cause, to have and to hold the same to him the said Proud, his heirs and assigns. A copy of which said deed is herewith filed as part of this bill, marked "Deed C."

52 That said Matilda L. Ridgely is a citizen of the District of Columbia.

And your complainant praying relief, special and general, as is in said bill prayed (save only as against the said William G. Ridgely and Anne Chase Ridgely) to the end that the defendants, the mayor and city council of Baltimore, and all the other defendants in this cause, (save William G. and Anne C. Ridgely only excepted) may answer this amended and supplemental bill and the premises on oath, as required by the course of this court, and that for the complainant's relief, and otherwise, this court will decree as prayed in said original bill, and that in the premises your complainant may have all proper, other, and further relief.

May it please the court to grant to your complainant the writ of subpœna, directed to the said mayor and city council of Baltimore, and (excepting said William and Anne C. Ridgely) all the other parties appearing as defendants in this cause, including Dr. Samuel Ridout and said John G. Proud, junior, so made defendants by these proceedings, to answer the premises, and therein to stand to and abide by such order and decree as to this honorable court shall seem equitable and proper.

G. L. DULANEY,
C. F. MAYER,
Sol'rs for Compl't.

53 Exhibits B and C, referred to in the foregoing bill, are as follows, to wit:

William G. Ridgely et al.—Deed to Samuel C. Ridgely.

This deed, made this eighth day of June, in the year of our Lord one thousand eight hundred and fifty-eight, between William G Ridgely, Miss Matilda L. Ridgely, and Miss Ann Chase Ridgely, of the District of Columbia, of the first part, and Samuel C. Ridgely, a citizen of the State of Maryland, of the other part, witnesseth:

That, in consideration of five dollars, the said parties of the first part do grant unto the said Samuel C. Ridgely all that piece or parcel of ground lying and being in Baltimore city, being part of Liffey street or Falls avenue, and beginning for the same at the south

side of Pratt street, at the northeast corner of Lewis Hart's three-story brick house, and running thence easterly in a range with the south line of Pratt street to the west side of Jones's Falls; thence southerly, binding on the wall and lagging of said falls, nineteen hundred and twenty-eight feet, to the bend of said falls; thence still along the south side of the City Dock, or Jones's Falls, to the water of the northwest branch of the Patapsco river, or the basin of Baltimore; thence northwesterly, bounding on the wharf of the basin of Baltimore,
54 commonly called the City Block, until it reaches the west side of Liffy street or Falls avenue; then northerly, bounding on the west line of said avenue or street, to the place of beginning, containing two acres, more or less. To have and to hold the said piece or parcel of land above described, with the appurtenances, unto the said Samuel C. Ridgely, in fee-simple.

In testimony whereof, the said parties of the first part have hereunto subscribed their names and affixed their seals on the day and year first above written.

WM. G. RIDGELY. [SEAL.]
MATILDA L. RIDGELY. [SEAL.]
ANN CHASE RIDGELY. [SEAL.]

Signed, sealed, and delivered in the presence of—
HENRY REAVER.
M. L. PLATER.

DISTRICT OF COLUMBIA, *to wit:*

Be it remembered, and it is hereby certified, that on this eighth day of June, in the year eighteen hundred and fifty-eight, before the subscriber, a notary public in and for the said District, duly commissioned and qualified as such, personally appeared William G. Ridgely, Miss Matilda L. Ridgely, and Miss Ann Chase Ridgely, and acknowledged the foregoing deed to be their act.

55 Given under my hand notarial seal this eighth day of June, 1858.

[SEAL.] HENRY REAVER, *Notary Public.*

Received for record June 9th, 1858, at 11 o'clock a. m.; same day recorded in liber G E S, No. 149, folio 342, &c., one of the land records of Baltimore city, & ex.

P'r G. E. SANGSTON, *Cl'k.*

William G. Ridgely and others—Deed to John G. Proud, jr.

This deed, made this fifth day of October, in the year of our Lord one thousand eight hundred and fifty-nine, between William G. Ridgely, Ann Chase Ridgely, and Matilda L. Ridgely, of the District of Columbia, of the first part, and John G. Proud, junior, a citizen of the State of Maryland, of the second part, witnesseth, that in consideration of five dollars the parties of the first part hereto do grant unto the said John G. Proud, junior, all that piece or parcel of ground lying and being in Baltimore city, being part of Liffy street, or Falls avenue, and beginning for the same at the south side of Pratt street,

at the northeast corner of Lewis Hartt's three-story brick house, and running thence easterly in a range with the south line of Pratt street to the west side of Jones's Falls; thence southerly, binding on the wall and flagging of said falls, nineteen hundred and twenty-eight feet to the bend of said falls; thence still along the south side
56 of the city dock or Jones's Falls to the water of the northwest branch of the Patapsco river, or the basin of Baltimore; thence northwesterly, bounding on the wharf of the basin of Baltimore, commonly called the City Block, until it reaches the west line of Liffy street or Falls avenue; then northerly, bounding on the west line of said avenue or street, to the place of beginning, containing two acres, more or less: to have and to hold the said piece or parcel of land above described, with the appurtenances, unto the said John G. Proud, junior, in fee simple. In testimony whereof the said parties of the first part have hereunto subscribed their names and affixed their seals on the day and year first above written.

WM. G. RIDGELY. [SEAL.]
ANN C. RIDGELY, [SEAL.]
M. L. RIDGELY. [SEAL.]

Signed, sealed, and delivered in our presence—
HENRY REAVER,
ROBERT WHITE.

DISTRICT OF COLUMBIA, *County of Washington, sct.:*

We, Henry Reaver and Robert White, two justices of peace in and for the county aforesaid, in the district aforesaid. do hereby certify that William G. Ridgely, Ann Chase Ridgely. and Matilda L. Ridgely, parties to a certain deed bearing date on the fifth day of October, A. D. 1859, and hereto annexed, personally appeared before us, at our county aforesaid, the said parties being personally well known to us as the persons who executed said deed, and the said Wil-
57 liam G. Ridgely, Ann Chase Ridgely, and Matilda L. Ridgely severally acknowledged the same to be their act and deed.

Given under our hands and seals this fifth day of October, A. D. 1859.

HENRY REAVER. [SEAL.]
ROBERT WHITE. [SEAL.]

DISTRICT OF COLUMBIA, *Washington County, to wit:*

I, John A. Smith, clerk of the circuit court of the District of Columbia, for the county of Washington, hereby certify that Henry Reaver and Robert White, esqs., before whom the above and annexed acknowledgment was made, and who have thereto subscribed their names, were at the time thereof justices of the peace in and for the county and district aforesaid, duly commissioned and qualified, and that their signature thereto are given.

In testimony whereof I have hereunto subscribed my name and affixed the seal of said court this 11th day of October, 1859.

[SEAL.] JNO. A. SMITH, *Clk.*

And afterwards, to wit, on the said 16th day of June, in the year of our Lord 1860, the said Mary Barney, by her solicitors aforesaid, filed in court here the following supplemental petition, which is in the words following, to wit:

58 In equity in the circuit court of the United States for the fourth circuit for the district of Maryland.

MARY BARNEY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE.

To the honorable the circuit court of the United States for said district:

The supplemental petition of the complainant respectfully states, that since the filing of her last petition in the above cause the said Samuel C. Ridgely, a party therein named, has departed this life, having first made his last will and testament, by which he devised all his estate and interest in the property in dispute in this cause to the said William G. Ridgely, Anne C. Ridgely, and Emily Hollingsworth and Matilda Ridgely. A copy of said will is filed as part of this petition.

That the said William G. Ridgely, Matilda L. Ridgely, and Ann C. Ridgely have conveyed and transferred to John G. Proud, junior, of the city of Baltimore, being a citizen of the State of Maryland, by deed, bearing date the fifth day of October, A. D. 1859, all their right and title to the land, and rights in dispute in this cause, to have and to hold the same to his heirs in fee simple, herewith filed as part of this petition. Wherefore your petitioner prays (in addition to the prayer of her aforesaid petition) to include the facts hereinbefore stated in her amended bill, according to the leave prayed for to file the same in her petition aforesaid. And your petitioner states,

59 that in filing this petition she does not do so for any purposes of delay, but is willing that any order for expediting the cause may be passed by this honorable court.

G. L. DULANY,
Solicitor for Petitioner.

The will of Samuel C. Ridgely referred to in the foregoing petition is as follows, to wit:

Samuel G. Ridgely's last will and testament.

I, Samuel C. Ridgely, of the United States army, and a citizen of the State of Maryland, being of sound and disposing mind, memory, and understanding, do make and publish this my last will and testament in manner and form following—that is to say:

In the first place, I give and devise unto my brother, William G. Ridgely, and my sisters Matilda L. Ridgely and Ann Chase Ridgely, their heirs and assigns, as tenants in common, all the estate and interest now owned and derived by me in a parcel, piece of ground, situate and lying in the city of Baltimore, in the State of Maryland, by

virtue of a deed from the said William G. Ridgely and Matilda L. Ridgely, and Ann Chase Ridgely, to myself, bearing date the eighth day of June, eighteen hundred and fifty-eight, and recorded among the land records of Baltimore city aforesaid, the estate and in-
60 terest hereby intended to be devised by me to them being only the estate and interest conveyed by them to me by the deed aforesaid.

In the next place, I give and devise all the residue of my estate and interest in the piece or parcel of ground described in the deed hereinbefore mentioned and referred to, unto my brother William G. Ridgely and my sister Matilda L. Ridgely, Ann Chase Ridgely, and Emily C. Hollingsworth, their heirs and assigns, to be equally divided among them share and share alike.

In the next place, I give and devise unto my sister, Emily C. Hollingsworth, for and during her natural life, one-half of all my estate and interest in and to the piece or parcel of ground situate and lying in the city of Baltimore aforesaid, binding and fronting on the east side of Light street, with the improvements thereon, and known as the Fountain Hotel; and from and after the death of my said sister Emily I give and devise the said one-half of my said estate and interest in said property unto my nephew, John McHenry Hollingsworth, and my nieces, Caroline Hollingsworth and Hester Francis Hollingsworth, their heirs and assigns.

In the next place, I give and devise unto my sisters, Matilda L. Ridgely and Ann Chase Ridgely, and the survivor of them, for and during their natural lives, the other one-half part of my estate and interest in the ground and premises binding and fronting on the
61 east side of Light street, and hereinbefore referred to and mentioned as the Fountain Hotel property. And from and after the death of my said sisters, Matilda and Ann, I give and devise the said one-half of my said estate in said property unto my brother, William G. Ridgely, his heirs and assigns.

In the next place, I give, devise, and bequeath unto my said sister, Matilda L. Ridgely, her heirs, personal representatives, and assigns, all the rest, residue, and remainder of my estate of every kind and nature whatsoever.

And lastly, I hereby revoke and annul all former wills by me at any time heretofore made, ratifying and confirming this and none other to be my last will and testament.

Witness my hand and seal, at the city of Baltimore aforesaid, this eleventh day of June, one thousand eight hundred and fifty-eight.

[SEAL.] SAMUEL CHASE RIDGELY.

Signed, sealed, published, and declared by Samuel C. Ridgely, the above-named testator, as and for his last will and testament, in the presence of us, who, at his request, in his presence, and in the presence of each other, have subscribed our names as witnesses thereto.

ALBERT A. NUNES.
RICHARD C. HARDESTY.
RICHARD R. BATTEE.

BALTIMORE CITY, *ss:*

On the second day of August, 1859, came Richard C. Hardesty and Richard R. Battee, two of the subscribing witnesses to the
62 aforegoing last will and testament of Samuel Chase Ridgely, late of said city, deceased, and made oath, on the Holy Evangely of Almighty God, that they did see the testator sign and seal this will; that they heard him publish, pronounce, and declare the same to be his last will and testament; that at the time of his so doing he was, to the best of their apprehensions, of sound and disposing mind, memory, and understanding; and that they, together with Albert A. Nunes, the other subscribing witnesses thereto, subscribed their names as witnesses to this will, in his presence, at his request, and in the presence of each other.

Sworn to in open court.

Test: ISAAC P. COOK,
Register of Wills for Baltimore City.

In testimony that the aforegoing is a true copy, taken from wills "liber I P C," No. 29, folio 22, &c., being one of the records in the office of the register of wills for Baltimore city, I hereunto subscribe my name and affix the seal of my office this twentyfifth day of October, in the year of our Lord eighteen hundred and fifty-nine.

[SEAL.] Test: ISAAC P. COOK,
Register of Wills for Baltimore City.

And afterwards, to wit, on the said 16th day of June, in the year of our Lord 1860, the following answers were filed in court here, to wit:

63 To the honorable the circuit court of the United States for fourth circuit, in and for the Maryland district, sitting in equity.

The joint and several answers of Eliza M. Jackson, (widow,) Isaac I. Coale, and Samuel Chase Coale, only children and heirs-at-law of Mrs. Eliza Coale, deceased, and Hester A. Ridout, (formerly Chase,) and her husband, Dr. Samuel Ridout, Matilda Chase, and Frances Catharine Townley Chase, which Hester A., Matilda L., and Frances Catharine are the only devisees of Anne Chase, deceased, Emily Hollingsworth, and John C. Proud, junior, to the original bill exhibited by Mary Barney in this court against the mayor and city council of Baltimore and others, and the several supplemental and amended bills and bills of revivor therein filed.

These defendants, saving to themselves the benefit of exceptions to the said bills, nevertheless, for answer thereto, answering, say that they admit the facts set forth in said original bill and amended bills of revivor, and supplemental to the original bill, and pray that a decree may pass, as prayed in said original bill.

JOSEPH T. ATKINSON,
Solicitor for Respondents.

It is agreed that this answer may be received without oath, to have the same effect as if sworn to.

G. L. DULANY,
Solicitor for Complainants.

64 To the honorable the circuit court of the United States for the fourth circuit court, in and for the Maryland district, sitting in equity:

The joint and several answers, Eliza M. Jackson, (widow,) Isaac I. Coale, administrator of Eliza Coale and Samuel Chase Coale, only children and heirs-at-law of Mrs. Elizabeth Coale, deceased, and which said Isaac Coale is administrator of said Mrs. Elizabeth Coale, Hester A. Ridout, (formerly Chase,) and her husband, Dr. Samuel Ridout, Matilda Chase, and Frances Catharine Townley Chase, which Hester A., Matilda A., and Frances Catharine are the only devisees of said Anne Chase, deceased, and Richard I. Crabb, executor of the said Anne Chase, Emily Hollingsworth, and William G. Ridgely, administrator with the will annexed of Samuel Chase Ridgely, and John C. Proud, and also devisee therein, and Anne C. Ridgely and Matilda L. Ridgely, to the original bill of Mary Barney filed in this court against the mayor and city council of Baltimore and others, and the several amended and supplemental bills and bills of revivor therein filed.

These defendants, saving to themselves the benefit of exceptions to the said , nevertheless, for answer thereto, answering, say that they admit the facts set forth in said original bill, and amended and supplemental bills, and bills of revivor to the original bill, and pray that a decree may pass, as prayed in said original bill, &c.

WM. MEADE ADDISON,
Solicitor for all other Defendants than the Mayor and City Council of Baltimore.

65 The within answer is admitted without oath.

And afterwards, to wit, on the said 16th day of June, in the year of our Lord 1860, the following admissions were filed in court here, to wit:

Circuit court of the United States for the Maryland district.

MARY BARNEY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE, and others.

It is admitted in this case that the honorable Judge Samuel Chase, of the city of Baltimore, departed this life on the 19th day of June, A. D. 1811, and that he left at his death, as his only children and heirs-at-law, Thomas Chase, Samuel Chase, Matilda Ridgely, wife of Henry Ridgely, which Henry Ridgely died about the same time as the said Judge Chase, Nancy or Anne Chase, Eliza Chase, who afterwards, in January, 1818, intermarried with a certain Skipwith K. Coal, who departed this life in the fall of the year 1835, and his widow, the said Eliza Coal, died in March, 1853; that the said Judge Chase also left at his death his daughter, Mary Barney, who was, pre-

vious to his death, married to William B. Barney; that said Wil-
66 liam B. Barney departed this life upon the 18th November, 1838;
that said Matilda Ridgely, in the early part of the year 1835, died, leaving as her only children and heirs-at-law William G. Ridgely, Hester Ridgely, Emily, who intermarried with Horatio Hollingsworth, which Horatio hath departed this life since the filing of the bill in this cause, Nancy Ridgely, Matilda Ridgely, and Samuel Chase Ridgely.

It is admitted that since the filing of the bill in this case the said Nancy Chase has departed this life, first having duly made her last will and testament, by which she devised all her estate, real and personal, to her nieces, Hester A. Chase, Matilda Chase, (which Hester A. Chase has since intermarried with Dr. Samuel Ridout, of Anne Arundel county,) and Catharine Townley Chase, residents of said county and citizens of the State of Maryland.

It is also admitted that Mrs. Eliza Coale, at her death as aforesaid, in the year 1853, left as her only children and heirs-at-law Mrs. Eliza M. Jackson, (a widow,) Samuel C. Coale, and Isaac Coale, citizens of the State of Maryland.

It is also admitted that Major Samuel Chase Ridgely departed this life in the summer of 1859, having first made his last will, a copy whereof is herewith filed, marked "Will A," which is admitted
67 as a part of this statement; that the said William G. Ridgely, Anne C. Ridgely, and Matilda L. Ridgely executed a deed of their property in Maryland to John G. Proud, junior, bearing date the 5th day of October, 1859, and herewith filed as part of these admissions, marked "Deed B."

It is admitted that no consideration was paid by Proud for the grant to him in said deed, and that the same was executed to remove a difficulty in the way of the exercise of the jurisdiction of this court.

G. L. DULANY,
CHAS. F. MAYER,
Att'ys for Pl'ff.
A. STIRLING, JR.,
Att'y for Mayor and City Council of Baltimore.

It is further admitted that Richard Crabb is executor, with the will annexed, of the within-named Anne Chase, deceased, and that Isaac Coale is administrator of Elizabeth Coale, within mentioned.

G. L. DULANY,
Sol'r for Compl't.
A. STIRLING, JR.,
For Mayor and City Council.
WM. MEADE ADDISON,
For all defendants except Mayor and City Council.

68 It is further admitted in this case that the deed of the 8th of June, 1858, to Samuel C. Ridgely from Wm. G. Ridgely and others, was made without valuable consideration, and to enable the court to dispose of the case as if the grantors in the deed had no in-

terest in the matter in question in the cause; it being further understood that on request of the grantors the property conveyed by the deed should be passed to the grantors.

C. F. MAYER,
G. L. DULANY,
Sol'rs for Complainant.
A. STIRLING, JR.,
For M. and C. C.

It is also agreed that either party may offer in evidence the record in the ejectment suit of Barney and others *vs.* The Mayor and City Council of Baltimore for any purpose for which it would have been evidence if filed before the commissioner and returned with the commission in this cause.

It is also agreed that the plats, deeds, and permissions in said case may be read in evidence by either party in this cause, and may be substituted in the place of any paper referred to in the bill which cannot be found, and especially the plat referred to in said bill as Exhibit B, as also the depositions and testimony of Lewis Stark,
69 and all ordinances and acts of assembly from the printed books thereof.

G. L. DULANY,
Sol'r for Compl't.

It is further admitted in the above case that William G. Ridgely has departed this life, and that John G. Proud, a citizen of the State of Maryland, and of the city of Baltimore, has been by the orphans' court for Baltimore city duly appointed his administrator, who has given bond, with sureties approved by said court, for the faithful performance of his duties. It is also admitted that said Proud has been duly appointed by the said court administrator d. b. n. with the will annexed of said Col. Samuel Chase Ridgely, deceased.

G. L. DULANY,
C. F. MAYER,
Sol'rs for Comp'lt.
J. MEREDITH,
Sol'r for Mayor and City C.
W. M. ADDISON,
Sol'r for Def'ts other than Mayor and C. C.

The "Will A," "Deed B," referred to in the foregoing admissions, are as follows, to wit:

70 *Samuel C. Ridgely's last will and testament.*

I, Samuel C. Ridgely, of the United States army, and a citizen of the State of Maryland, being of sound and disposing mind, memory, and understanding, do make and publish this my last will and testament, in manner and form following—that is to say:

In the first place, I give and devise unto my brother, William G. Ridgely, and my sisters, Matilda L. Ridgely and Anne Chase Ridgely, their heirs and assigns, as tenants in common, all the estate and in-

terest now owned and derived by me in a parcel, piece of ground, situate and lying in the city of Baltimore, State of Maryland, by virtue of a deed from the said William G. Ridgely and Matilda L. Ridgely and Ann Chase Ridgely to myself, bearing date the eighth day of June, eighteen hundred and fifty-eight, and recorded among the land records of Baltimore city aforesaid; the estate and interest hereby intended to be devised by me to them being only the estate and interest conveyed by them to me by the deed aforesaid.

In the next place, I give and devise all the residue of my estate and interest in the piece or parcel of ground described in the deed hereinbefore mentioned and referred to unto my brother, Wil-
71 liam G. Ridgely, and my sister, Matilda L. Ridgely, Ann Chase Ridgely, and Emily C. Hollingsworth, their heirs and assigns, to be equally divided among them, share and share alike.

In the next place, I give and devise unto my sister, Emily C. Hollingsworth, for and during her natural life, one-half of all my estate and interest in and to the piece or parcel of ground situate and lying in the city of Baltimore aforesaid, binding and fronting on the east side of Light street, with the improvements thereon, and known as the Fountain Hotel, and from and after the death of my said sister Emily I give and devise the said one-half of my said estate and interest in said property unto my nephew, John McHenry Hollingsworth, and my nieces, Caroline Hollingsworth and Hester Frances Hollingsworth, their heirs and assigns.

In the next place, I give and devise unto my sisters, Matilda L. Ridgely and Anne Chase Ridgely, and the survivor of them, for and during their natural lives, the other one-half part of my estate and interest in the ground and premises binding and fronting on the east side of Light street, and hereinbefore referred to and mentioned as the Fountain Hotel property, and from and after the death of my said sisters Matilda and Ann I give and devise the said one-half of my said estate in said property unto my brother, William G. Ridgely, his heirs and assigns.

72 In the next place, I give, devise, and bequeath unto my said sister, Matilda L. Ridgely, her heirs, personal representatives, and assigns, all the rest, residue, and remainder of my estate, of every kind and nature whatsoever.

And lastly, I hereby revoke and annul all former wills by me at any time heretofore made, ratifying and confirming this, and none other, to be my last will and testament.

Witness my hand and seal at the city of Baltimore aforesaid, this eleventh day of June, one thousand eight hundred and fifty-eight.

SAM'L CHASE RIDGELY. [SEAL.]

Signed, sealed, published, and declared by Samuel C. Ridgely, the above-named testator, as and for his last will and testament, in the presence of us, who, at his request, in his presence, and in the presence of each other, have subscribed our names as witnesses thereto.

ALBERT A. NUNES.
RICH'D C. HARDESTY.
RICHARD R. BATTEE.

BALTIMORE CITY, *ss:*

On the second day of August, 1859, came Richard C. Hardesty and Richard R. Battee, two of the subscribing witnesses to the aforegoing last will and testament of Samuel Chase Ridgely, late of said city, deceased, and made oath on the Holy Evangely of Almighty God that they did see the testator sign and seal this will; that they heard him publish, pronounce, and declare the same to be his last will
73 and testament; that at the time of so doing he was, to the best of their apprehensions, of sound and disposing mind, memory, and understanding, and that they, together with Albert A. Nunes, the other subscribing witnesses thereto, subscribed their names as witnesses to this will, in his presence, at his request, and in the presence of each other.

Sworn to in open court.

Test: ISAAC P. COOK,
Register of Wills for Baltimore City.

In testimony that the aforegoing is a true copy, taken from Wills, liber J P C, No. 29, folio 22, &c., being one of the records in the office of the register of wills for Baltimore city, I hereunto subscribe my name and affix the seal of my office this twenty-
[SEAL.] fifth day of October, in the year of our Lord eighteen hundred and fifty-nine.

Test: ISAAC P. COOK,
Register of Wills for Baltimore City.

William G. Ridgely and others—Deed to John G. Proud, jun.

This deed, made this fifth day of October, in the year of our Lord one thousand eight hundred and fifty-nine, between William G. Ridgely, Ann Chase Ridgely, and Matilda L. Ridgely, of the
74 District of Columbia, of the first part, and John G. Proud, junior, a citizen of the State of Maryland, of the second part, witnesseth, that, in consideration of five dollars, the parties of the first part hereto do grant unto the said John G. Proud, junior, all that piece or parcel of ground lying and being in Baltimore city, being part of Liffey street, or Falls avenue, and beginning for the same at the south side of Pratt street, at the northeast corner of Lewis Hartt's three-story brick house, and running thence easterly, in a range with the south line of Pratt street, to the west side of Jones's Falls; thence southerly, binding on the wall and flagging of said falls, nineteen hundred and twenty-eight feet to the bend of said falls; thence still along the south side of the city dock, or Jones's Falls, to the water of the northwest branch of the Patapsco river, or the basin of Baltimore; thence northwesterly, bounding on the wharf of the basin of Baltimore, commonly called the City Block, until it reaches the west line of Liffey street, or Falls avenue; then northerly, bounding on the west line of said avenue or street, to the place of beginning, containing two acres, more or less: to have and to hold the said piece or parcel of land above described, with the appurtenances, unto the said John G. Proud, junior, in fee simple.

In testimony whereof the said parties of the first part have hereunto subscribed their names and affixed their seals on the day and year first above written.

75

WM. G. RIDGELY. [SEAL.]
ANN C. RIDGELY. [SEAL.]
M. L. RIDGELY. [SEAL.]

Signed, sealed, and delivered in our presence—
HENRY REAVER.
ROBERT WHITE.

DISTRICT OF COLUMBIA, *County of Washington, sct.:*

We, Henry Reaver and Rob. White, two justices of the peace in and for the county aforesaid, in the district aforesaid, do hereby certify that William G. Ridgely, Ann Chase Ridgely, and Matilda L. Ridgely, parties to a certain deed bearing date on the fifth day of October, A. D. 1859, and hereto annexed, personally appeared before us at our county aforesaid, the said parties being personally well known to us as the persons who executed said deed, and the said William G. Ridgely, Ann Chase Ridgely, and Matilda L. Ridgely severally acknowledged the same to be their act and deed.

Given under our hands and seals this fifth day of October, A. D. 1859.

HENRY REAVER. [SEAL.]
ROBERT WHITE. [SEAL.]

DISTRICT OF COLUMBIA, *Washington County, to wit:*

I, John A. Smith, clerk of the circuit court of the District of Columbia for the county of Washington, hereby certify that Henry Reaver and Robert White, esqrs., before whom the above and annexed
76 acknowledgment was made, and who have thereto subscribed their names, were at the time thereof justices of the peace in and for the county and district aforesaid, duly commissioned and qualified, and that their signatures thereto are genuine.

In testimony whereof, I have hereunto subscribed my name
[SEAL.] and affixed the seal of said court this 11th day of October, 1859.

JOHN A. SMITH, *Cl'k.*

Received for record October 14, 1859, at ¾ past 9 o'clock a. m.; same day recorded among the land records of Balt'o. city, in liber G E S, No. 178, folio 125, &c., and ex'd.

Per GEO. E. SANGSTON, *Cl'k.*

The record in the ejectment suit of Barney and others *vs.* The Mayor and City Council of Baltimore, referred to in the admissions, is as follows, to wit:

MARYLAND, *sct.:*

At a court of appeals of the State of Maryland, one of the United States of America, begun and held for the Western Shore of the said

State, at the city of Annapolis, on the second Monday of June, being the twelfth day of the same month, in the year of our Lord one thousand eight hundred and forty-three, and in the sixty-seventh
77 year of the independence of the United States—present, the honorable John Buchanan, chief judge; honorable John Stephen, honorable Stevenson Archer, honorable Thomas Beale Dorsey, honorable Ezekiel F. Chambers, honorable Asa Spence, judges; Richard W. Gill, clerk—among other, were the following, to wit:

MARY BARNEY, ANN CHASE, ELIZA COALE, William G. Ridgely, Samuel C. Ridgely, Nancy Ridgely, Horatio Hollingsworth, and Emily, his wife, lessee,
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE, Job Smith, junior, Charles Harrison, Peter Fenly, John Quay, James Williamson, Thomas R. Matthews, and Samuel Hopkins.

Be it remembered that now here, on the second Monday in June, being the thirteenth day of the said month, in the year of our Lord one thousand eight hundred and forty-two, the chief judge and associate judges of the sixth judicial district of Maryland, in pursuance of the directions of the act of assembly in such case made and provided, transmit to the court of appeals here the record of proceedings
78 of a plea which was lately depending before them in the county court of Baltimore county between John Doe, lessee of William B. Barney, and Mary Barney his wife, Ann Chase, Skipwith C. Coale, and Eliza Coale his wife, William G. Ridgely, Samuel C. Ridgely, Nancy Ridgely, Horatio Hollingsworth, and Emily his wife, and Matilda Ridgely, plaintiff, and the mayor and city council of Baltimore, Job Smith, junior, Charles Harrison, Peter Fenly, John Quay, James Williamson, Thomas R. Matthews, and Samuel Hopkins, defendants, and wherein the said court gave judgment for the said mayor and city council of Baltimore and others against the said John Doe, lessee, as aforesaid, and from which said judgment the said John Doe, lessee as aforesaid, appealed to the court of appeals here, the tenor of which said record of proceeding is in form following, to wit:

THE STATE OF MARYLAND, *Baltimore County, to wit:*

At a county court of the sixth judicial district of the State of Maryland, begun and held at the court-house in the city of Baltimore, in and for the said city, on the first day of September, in the
79 year of our Lord one thousand eight hundred and forty-one. present, the honorable Stephenson Archer, chief judge; Richard B. Magruder, John Purviance, associate judges; William D. Ball, esquire, sheriff; Thomas Kell, clerk—among other, were the following proceedings, to wit:

MARY BARNEY, ANN CHASE, ELIZA COALE, William G. Ridgely, Samuel C. Ridgely, Nancy Ridgely, Horatio Hollingsworth, and Emily, his wife,

vs.

THE MAYOR AND CITY COUNCIL OF BALTIMORE, Job Smith, jun'r, Charles Harrison, Peter Fenly, John Quay, James Williamson, Thomas R. Mathews, and Samuel Hopkins.

Be it remembered, that heretofore, to wit, on the thirty-first day of January, in the year of our Lord one thousand eight hundred and thirty-seven, John Doe, lessee of William B. Barney and Mary Barney, his wife, Ann Chase, Skipwith H. Cole, and Eliza Coale, his wife, in the lifetime of said Skipwith, William G. Ridgely, Samuel C. Ridgely, Nancy Ridgely, Horatio Hollingsworth, and Emily his wife, and Matilda Ridgely, by Grafton L. Dulany and Charles F.
80 Mayer, esquires, attorneys, declared in the county court here against Richard Roe in a plea of trespass and ejectment, with a notice thereto annexed, in form following, to wit:

BALTIMORE COUNTY, *to wit:*

Richard Roe was attached to answer John Doe of a plea, wherefore he, the said Richard Roe, with force and arms, &c., entered into four undivided six parts, the whole into six equal parts, to be divided, of all that piece, parcel, or lot of ground lying in the city of Baltimore, in the county aforesaid, being part of a tract of land called "Cole's Harbor or Todd's Range," and also being part of the made ground, and known as the City Block and Liffy or Falls avenue, situate on the west side of Jones's Falls, and is described as follows by metes and bounds, courses and distances, to wit: Beginning for the same on the south side of Pratt street, at the northeast corner of Lewis Hart's three-story brick house, and running thence easterly in a range with the south line of Pratt street to the west side of Jones's Falls; thence southerly, bounding on the wall and logging of said falls, nineteen hundred and twenty-eight feet, to the bend of said falls; thence still along the south side of the city dock or Jones's Falls to the water of the northwest branch of the Patapsco river, or the basin of Baltimore; thence northwesterly, bounding on the wharf of the basin of Baltimore, commonly called the City Block, until it reaches the west line of Liffy street or Falls avenue; then northerly, bounding on the west line of said
81 avenue or street, to the place of beginning, containing two acres, more or less, with the appurtenances, which William B. Barney and Mary his wife, Matilda Ridgely, in her lifetime, Ann Chase, and Eliza Coale to the said John demised for a term of years, which is not yet expired, and him, the said John, from his lot of ground ejected. And also, wherefore, with force and arms, &c., at the county aforesaid, he entered into four other undivided sixth parts of all that lot of ground situate in the city of Baltimore, in the county aforesaid, which is particularly described as aforesaid, with the appurte-

nances, which William B. Barney and Mary his wife, and Matilda Ridgely, in her lifetime, Ann Chase, and Skipwith H. Coale and Eliza his wife, in the lifetime of the said Skipwith, to the said John demised for a term of years, which is not yet expired, and him, the said John, from his said lot of ground aforesaid ejected. And also, wherefore, with force and arms aforesaid, &c., at the county aforesaid, he entered into four other undivided sixth parts of the said lot of ground, situate in the city of Baltimore, in the county aforesaid, which is particularly described as aforesaid, with the appurtenances, which William B. Barney and Mary his wife, and Matilda Ridgely, in her lifetime, Ann Chase, Skipwith H. Coale and Eliza his wife, to the said John demised for a term of years, which is not yet expired, and him,
82 the said John, from his said lot of ground aforesaid ejected. And also, with force and arms, &c., at the county aforesaid, he entered into another undivided sixth part of the said lot of ground situate in the city of Baltimore, in the county aforesaid, which is particularly described as aforesaid, with the appurtenances, which William G. Ridgely, Nancy Ridgely, and Samuel C. Ridgely, Horatio Hollingsworth and Emily his wife, and Matilda Ridgely to the said John demised for a term of years, which is not yet expired, and him, the said John, from his lot aforesaid ejected; and other wrong to the said John, and there to the great damage of the said John, and against the peace, government, and dignity of the State, &c. Whereupon the said John, by Charles F. Mayer and Grafton L. Dulany, his attorneys, complains that the said William B. Barney and Mary his wife, Matilda Ridgely, in her lifetime, Ann Chase, and Eliza Coale, on the twenty-fifth day of January, in the year eighteen hundred and thirty-four, at the county aforesaid, had demised to the said John four undivided sixth parts of all that the aforesaid lot of ground situate in the city of Baltimore, and which is hereinbefore particularly described, with the appurtenances. To have and to hold the said premises, with the appurtenances, to him, the said John, and his assigns, from the twenty-fifth day of January, then last past, for and during,
83 and until the full end and term of eighty years from thence next ensuing, and fully to be complete and ended; and also that the said William B. Barney, and Mary his wife, Matilda Ridgeley in her lifetime, Ann Chase, Skipwith H. Coale, and Eliza his wife, in the lifetime of the said Skipwith, on the twenty-fifth day of January, in the year eighteen hundred and thirty, at the county aforesaid, had demised to the said John four undivided sixth parts of the said lot of ground situate in the city of Baltimore, herein before particularly described, with the appurtenances, to have and to hold the said premises, with the appurtenances, to him the said John and his assigns, from the twenty-fifth day of the same month of January then last past, for and during and until the full end and term of eighty years from thence next ensuing, fully to be complete and ended. And also that the said William B. Barney and Mary his wife, Matilda Ridgely in her lifetime, Ann Chase and Skipwith H. Coale and Eliza his wife, in the lifetime of the said Skipwith, on the twenty-fifth day of January, in the year eighteen hundred and twenty, at the county

aforesaid, had demised unto the said John four undivided sixth parts of the said lot of ground situate in the city of Baltimore, hereinbefore particularly described, with the appurtenances, to have and to hold the said premises, with the appurtenances, to him the said John and his assigns, from the twenty-fifth day of the same month
34 of January then last past, for and during and until the full end and term of eighty years from thence next ensuing, fully to be complete and ended. And also that the said William G. Ridgely, Samuel C. Ridgely, Nancy Ridgely, Horatio Hollingsworth and Emily his wife, Matilda Ridgely, on the 25th day of January, in the year eighteen hundred and thirty-six, at the county aforesaid, had demised unto the said John one undivided sixth part of the said lot of ground situate in the city of Baltimore, and hereinbefore particularly described, with the appurtenances, to have and to hold the said premises, with the appurtenances, unto him the said John and his assigns, from the twenty-fifth day of the same month of January then last past, for and during and until the full end and term of sixty years from thence next ensuing, fully to be complete and ended. By virtue of which said several demises, the said John Doe entered into the said tenements, with the appurtenances, and became and was possessed thereof for the said terms, so to him thereof granted as aforesaid, and the said John Doe being so thereof possessed, the said Richard Roe afterwards, to wit, on the first day of June, in the year aforesaid, with force and arms, &c., entered into the said tenements, with the appurtenances, in which the said John Doe was so in-
85 terested, in manner and for the term aforesaid, which is not yet expired, and ejected the said John Doe from his said lot of ground, and other wrongs to the said John Doe, then and there did to the great damage of the said John Doe, and against the peace, government, and dignity of the State of Maryland; wherefore the said John Doe saith that he is injured and has sustained damage to value of one thousand dollars, and therefore he brings his suit, &c.

GRAFTON L. DULANY.
CHARLES F. MAYER, *Pl'tff's Att'ys.*

To the mayor and city council of Baltimore, Job Smith, Charles Harrison, Peter Fenly, John Quay, James Williamson, Thomas R. Mathews, Samuel Hopkins :

I am informed that you are in possession of, or claim title to, the premises in this declaration of ejectment mentioned, or to some part thereof, and I being sued in this action as a casual ejector only, and having no claim or title to the same, do advise you to appear on the first day of May in Baltimore county court, at the court-house in the same county, by some attorney of that court, and then and there, by rule of the same court, to cause yourselves to be made defendants in my stead, otherwise I shall suffer judgment thereon, to be entered against me by default, and you will be turned out of possession. Dated this twenty-first day of January, in the year of our Lord one thousand eight hundred and thirty-seven.

Your loving friend,

RICHARD ROE.

86 Eight copies of which said declaration and notice, under seal, were made and sent to the sheriff of Baltimore county aforesaid, thereon indorsed "to be served on tenants in possession; if no tenant, to be set up on the most conspicuous part of the premises at least five days before the sitting of the court."

At which mentioned first day of May, to wit, in the year of our Lord one thousand eight hundred and thirty-seven, being the return day of the service of the copies of the declaration and notice as aforesaid, comes into the county court here the said John Doe, lessee, as aforesaid, by his attorneys aforesaid, and the sheriff of the county aforesaid, to whom the copies of the declaration and notice aforesaid were in manner aforesaid sent, certifies to the court here the service thereof in form following, to wit:

Copies served on defendants the 10th of February, 1837.

JOHN W. WALKER, *Sheriff.*

Whereupon the said John Doe, lessee as aforesaid, by his attorneys aforesaid, prays that the said Richard Roe, the defendant, the mayor and city council of Baltimore aforesaid, and the said Job Smith, junior, Charles Harrison, Peter Fenly, John Quay, James Williamson, Thomas R. Mathews and Samuel Hopkins, tenants in possession of the said premises, those under whom they claim, to the declaration aforesaid may appear. And thereupon the said mayor and city council of Baltimore, John Smith, junior, Charles Harrison,
87 Peter Fenly, John Quay, James Williamson, Thomas R. Mathews, and Samuel Hopkins, by George Gorden Belt, esquire, their attorney, in pursuance of the notice aforesaid, come into court here; whereupon it is ruled by the court here, with the consent of the said John Doe, lessee, as aforesaid, by his attorneys aforesaid, and the said the mayor and city council aforesaid, Job Smith, junior, Charles Harrison, Peter Fenly, John Quay, James Williamson, Thomas R. Mathews, and Samuel Hopkins, (who claim the title in question,) by their attorney aforesaid, that the said mayor and city council of Baltimore, Job Smith, junior, Charles Harrison, Peter Fenly, John Quay, James Williamson, Thomas R. Mathews and Samuel Hopkins be admitted defendants in the place and stead of the now defendant Richard Roe, the casual ejector, and that they immediately receive a declaration and plead thereto the general issue, and at the trial thereon to be had the said defendants shall appear in their proper person, or by their attorney or counsel, and confess the lease, entry and actual ouster and expulsion of so much of the tenements in the declaration mentioned of the said John Doe, lessee, as aforesaid, as is in the possession of the said defendants or their tenants, or of any other person claiming by or under their title, or in default thereof, that judgment be entered against the said Richard Roe, the casual ejector, but that prosecution be stayed against him until he
88 makes default in any of the premises. And it is further ruled by the court here, with the consent of the counsel, that if, by reason of such default, the said John Doe, lessee as aforesaid, shall become non-suit at the trial, the said defendants shall take no advantage thereof, but shall pay to the said John Doe, lessee, as aforesaid,

his costs and so forth. And it is further ruled by the court here, that if, upon the trial of the said issue, a verdict shall be given for the said defendants, or if the said John Doe, lessee as aforesaid, shall not prosecute his declaration upon any other cause than for the not confessing the lease entry and ouster as aforesaid, then the lessors aforesaid of the said John Doe shall pay costs, &c. And thereupon the said John Doe, lessee as aforesaid, by his attorneys aforesaid, declares against the said defendants in the plea aforesaid, as follows, to wit:

BALTIMORE COUNTY, *to wit:*

The mayor and city council of Baltimore, Job Smith, junior, Charles Harrison, Peter Fenly, John Quay, James Williamson, Thomas R. Mathews, and Samuel Hopkins were attached to answer unto John Doe of a plea whereof they, the said mayor and city council of Baltimore, Job Smith, junior, Charles Harrison, Peter Fenly, John Quay, James Williamson, Thomas R,
89 Mathews, and Samuel Hopkins, with force and arms, &c., entered into four undivided six parts, the whole of which into six equal parts to be divided, of all that piece, parcel or lot of ground lying in the city of Baltimore, in the county aforesaid, being part of a tract of land called "Cole's Harbor or Todd's Range," and also being part of the made ground and known as the City Block and Liffy or Falls avenue, situate on the west side of Jones's Falls, and is described as follows by metes and bounds, courses, and distances, to wit: beginning for the same on the south side of Pratt street at the north, east corner of Lewis Hart's three-story brick house, and running thence easterly in a range with the south line of Pratt street to the west side of Jones's Falls; then southerly, bounding on the wall and logging of said falls, nineteen hundred and twenty-eight feet, to the bend of said falls; then still along the south side of the city dock or Jones's Falls, to the water of the northwest branch of the Patapsco river, or the basin of Baltimore; then northwesterly, bounding on the wharf of the basin of Baltimore, commonly called the City Block, until it reaches the west line of Liffy street or Falls avenue; then northerly, bounding on the west of said avenue or street, to the place of beginning, containing two acres, more or less, with the appur-
90 tenances, which William B. Barney and Mary his wife, Matilda Ridgely in her lifetime, Ann Chase, and Eliza Coale to the said John demised for a term of years, which is not yet expired, and him, the said John, from his lot of ground aforesaid ejected. And also wherefore, with force and arms, &c., at the county aforesaid, he entered into four other undivided sixth parts of all that lot of ground situate in the city of Baltimore, in the county aforesaid, which is particularly described as aforesaid, with the appurtenances, which William B. Barney and Mary his wife, and Matilda Ridgely in her lifetime, Ann Chase, and Skipwith H. Coale and Eliza his wife, in the lifetime of the said Skipwith, to the said John demised for a term of years, which is not yet expired, and him, the said John, from his said lot of ground aforesaid ejected. And also wherefore, with force and arms, &c., at the county aforesaid, he entered into four other

undivided sixth parts of the said lot of ground situate in the city of Baltimore, in the county aforesaid, which is particularly described as aforesaid, with the appurtenances, which William B. Barney and Mary his wife, and Matilda Ridgely in her lifetime, Ann Chase, Skipwith Coale in his lifetime, and Eliza his wife, to the said John demised for a term for years, which is not yet expired, and him, the
91 said John, from his said lot of ground aforesaid ejected. And also wherefore, with force and arms, &c., at the county aforesaid, he entered into one other sixth of the said lot of ground situate in the city of Baltimore, in the county aforesaid, which is particularly described as aforesaid, with the appurtenances, which William G. Ridgely, Nancy Ridgely, and Samuel C. Ridgely, Horatio Hollingsworth, and Emily his wife, and Matilda Ridgely to the said John demised for a term of years, which is not yet expired, and him, the said John, from his lot aforesaid ejected, and other wrongs to the said John, and there, to the great damage of the said John, and against the peace, government, and dignity of the State, &c.

Whereupon the said John, by Charles F. Mayer and Grafton L. Dulany, his attorneys, complains that the said William B. Barney and Mary his wife, Matilda Ridgely in her lifetime, Ann Chase, and Eliza Coale, on the twenty-fifth day of January, in the year eighteen hundred and thirty-four, at the county aforesaid, had demised unto the said John four undivided sixth parts of all that the aforesaid lot of ground, situate in the city of Baltimore, and which is hereinbefore particularly described, with the appurtenances: to have and to hold the said premises, with the appurtenances, to him, the said
92 John, and his assigns, from the twenty-fifth day of January, then last past, for and during and until the full end and term of eighty years, from thence next ensuing, and fully to be complete and ended. And also that the said William B. Barney and Mary his wife, and Matilda Ridgely in her lifetime, Ann Chase, Skipwith H. Coale and Eliza his wife, in the lifetime of the said Skipwith, on the twenty-fifth day of January, in the year eighteen hundred and twenty, at the county aforesaid, had demised unto the said John four undivided sixth parts of the said lot of ground, situate in the city of Baltimore, hereinbefore particularly described, with the appurtenances: to have and to hold the said premises, with the appurtenances, to him, the said John, and his assigns, from the twenty-fifth day of the same month of January, then last past, and for and during and until the full end and term of eighty years, from thence next ensuing, and fully to be complete and ended. And also that the said William B. Barney and Mary his wife, Matilda Ridgely in her lifetime, Ann Chase, Skipwith and Eliza his wife, in the lifetime of the said Skipwith, on the twenty-fifth day of January, in the year eighteen hundred and twenty, at the county aforesaid, had demised unto the said John four undivided sixth parts of the said lot of ground, situate in the city of Baltimore, hereinbefore particularly described, with the appurtenances, to have and to hold the said premises with the appurte-
93 nances, to him, the said John, and his assigns, from the twenty-fifth day of January, then last past, for and during and until

the full end and term of eighty years, from thence next ensuing fully to be complete and ended. And also that the said William G. Ridgely, Samuel C. Ridgely, Nancy Ridgely, Horatio Hollingsworth, and Emily his wife, Matilda Ridgely, on the twenty-fifth day of January, in the year eighteen hundred and thirty-six, at the county aforesaid, had demised unto the said John one undivided sixth part of the said lot of ground, situate in the city of Baltimore, and hereinbefore particularly described, with the appurtenances: to have and to hold the said premises, with the appurtenances, unto the said John and his assigns, from the twenty-fifth day of the same month of January, then last past, for and during and until the full end and term of sixty years, from thence next ensuing, fully to be complete and ended. By virtue of which said several demises the said John Doe entered into the said tenements, with the appurtenances, and became and was possessed thereof for the said terms so to him thereof granted as aforesaid. And the said John Doe being so thereof possessed, the said
94 the mayor and city council of Baltimore, Job Smith, junior, Charles Harrison, Peter Fenly, John Quay, James Williamson, Thomas R. Mathews, and Samuel Hopkins, afterwards, to wit, on the first day of June, in the year aforesaid, with force and arms, &c., entered into the said tenements, with the appurtenances, in which the said John Doe was so interested in manner and for the terms aforesaid, which are not expired, and ejected the said John Doe from his said lot of ground, and other wrongs to the said John Doe then and there did, to the great damage of the said John Doe, and against the peace, government and dignity of the State of Maryland. Wherefore the said John Doe saith that he is injured and hath sustained damage to the value of one thousand dollars, and therefore he brings his suit, &c.

GRAFTON L. DULANY,
CHARLES F. MAYER, *Pl'tiff's Att'ys.*

And thereupon the said defendants, by their attorney aforesaid, files in court here the following plea, to wit:

95 *Plea.*

CHASE AND OTHERS
vs.
THE MAYOR AND CITY COUNCIL
of Baltimore.

And the said defendants, by George Gordon Belt, their attorney, come and defend the wrong and injury, when, &c., and say that they are not guilty of the trespass in the plaintiff's declaration complained of, and of this they put themselves upon the country, &c.

GEO. GORDON BELT, *Att'y for Defts.*

Thereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is continued until the first day of September next; at which said first day of

September, to wit, in the year of our Lord one thousand eight hundred and thirty-seven, come again unto the county court here, the parties aforesaid, by their attorneys aforesaid. Thereupon further process of and upon the premises aforesaid between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is continued until the first day of January next, at which said first day of January, to wit, in the year of our Lord one thousand eight hundred and thirty-eight, come again into the county court here the parties aforesaid, by their attorneys aforesaid. Thereupon further process of and upon the premises aforesaid between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is continued until the first day of May; at which said first day of May, to wit, in the year last aforesaid, come again into court here the parties aforesaid, by their attorneys aforesaid. Thereupon further process of and upon the premises aforesaid, between the par-
96 ties aforesaid, by consent of said parties and their attorneys aforesaid, and by order of the court here thereon, is continued until the first day of September next; at which said first day of September, to wit, in the year last aforesaid, come again into the county court here the parties aforesaid, by their attorneys aforesaid. Thereupon further process of and upon the premises aforesaid between the parties aforesaid, by consent of the said parties and their attorneys, aforesaid, and by order of the court thereon, is continued until the first day of January next; at which said first day of January, to wit, in the year of our Lord one thousand eight hundred and thirty-nine, comes again into the county court here, as well the said John Doe, lessee, as aforesaid, as the said defendants, by William Gwynn, esquire, their attorney; whereupon the parties aforesaid, by their attorneys aforesaid, filed in said cause the following agreement, to wit:

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It is agreed that either party may give in evidence anything which might legally and properly be offered in any state of the pleadings, and that pleadings may be amended and parties added by either party at their option.

G. L. DULANY, *Att'y for Pl'ffs.*
WM. GWYNN, *Att'y for Def'ts.*

And thereupon the said defendants, by their attorneys afore-
97 said, take defence according to their pretensions as they shall appear to be laid down in the return of a warrant of resurvey, to be issued in this cause, and they pray that a warrant of resurvey may issue, to be directed to the sheriff and surveyor of the county aforesaid, and which, by the court here, is granted them.

Thereupon further process of and upon the premises aforesaid between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is continued until the first day of May next; at which said first day of May, to

wit, in the year of our Lord one thousand eight hundred and thirty-nine, come again into the county court here the parties aforesaid, by their attorneys aforesaid. Whereupon, on the application of the defendants aforesaid, by their attorneys aforesaid, and in pursuance of the leave heretofore granted them by the court here, a warrant of resurvey issues in this cause directed to the sheriff and surveyor of the county aforesaid, and to them delivered, returnable on the second day of September next; the same day is given to the parties aforesaid, then and there, and so forth; at which said second day of September, to wit, in the year last aforesaid, come again into the
98 county court here the parties aforesaid, by their attorneys aforesaid, and the sheriff and surveyor of the county aforesaid makes no return to the court of the warrant of resurvey aforesaid, nor does it appear that there has been anything done therein. Thereupon further process of and upon the premises aforesaid between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is continued (with leave to complete survey under the warrant heretofore issued in this cause) until the first day of January next; at which said first day of January, to wit, in the year of our Lord one thousand eight hundred and forty, come again into the county court here the parties aforesaid, by their attorneys aforesaid, and the sheriff and surveyor of the county aforesaid make no return to the court here of the warrant of resurvey aforesaid, nor does it appear that anything has been done therein. Thereupon further process of and upon the premises aforesaid between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is continued (with leave to complete the survey under the warrant heretofore issued in this cause) until the first day of May next; at which said first day of May, to wit, in the year last aforesaid, come again
99 into the county court here the parties aforesaid, by their attorneys aforesaid, and the sheriff and surveyor of the county aforesaid make no return to the court here of the warrant of resurvey aforesaid, nor does it appear that anything has been done therein. Thereupon further process of and upon the premises aforesaid between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is continued (with leave to complete the survey under the warrant heretofore issued in this cause) until the first day of September next; at which said first day of September, to wit, in the year last aforesaid, come again into the county court here the parties aforesaid, by their attorneys aforesaid, and the sheriff and surveyor of the county aforesaid make no return to the court here of the warrant of resurvey aforesaid, nor does it appear that anything has been done therein. Thereupon further process of and upon the premises aforesaid between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is continued (with leave to complete the survey under the warrant heretofore issued in this cause) until the first day of January next; at which said first day of January, to wit, in the year of our Lord one thousand eight hundred and

100 forty-one, come again into the county court here the parties aforesaid, by their attorneys aforesaid, and the sheriff and surveyor of the county aforesaid make no return to the court here of the warrant of resurvey aforesaid, nor does it appear that anything has been done therein. Thereupon further process of and upon the premises aforesaid between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is continued (with leave to complete the survey under the warrant heretofore issued in this cause) until the first day of May next; at which said first day of May, to wit, in the year last aforesaid, come again into the county court here the parties aforesaid, by their attorneys aforesaid. and the sheriff and surveyor of the county aforesaid, to whom the said warrant of resurvey aforesaid was in form aforesaid directed, and under which leave was given to complete the survey, make return to the court here, in pursuance thereof, of three plats and explanations thereof. Thereupon further process of and upon the premises aforesaid between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is continued until the first day of September next; and now, here at this day, the said first day of September, to wit, in the year of our Lord one thousand eight hundred and forty-one, come again into the county court here as well
101 the said John Doe, lessee as aforesaid, by his attorneys aforesaid, as the said the mayor and city council of Baltimore, Job Smith, junior, Charles Harrison, Peter Fenby, John Quay, James Williamson, Thomas R. Matthews, and Samuel Hopkins, by William Gwynn, William Schley, and William L. Marshall, esquires, their attorneys; and the said John Doe, lessee as aforesaid, by his attorney aforesaid. suggests to the court here that since the last continuance of this cause in the said county court and before this day, to wit, at the county aforesaid, the said William B. Barney, one of the lessors of the said John Doe, departed this life, and the said Mary Barney, Ann Chase, Eliza Coale, William G. Ridgely, Samuel C. Ridgely, Nancy Ridgely, and Horatio Hollingsworth. and Emily his wife, have survived him, which allegation the defendants do not deny, but admit the same to be true; and thereupon the said John Doe, lessee as aforesaid, by his attorneys aforesaid, files in court here the following agreement and pretensions, to wit:

In Baltimore county court.

LESSEE OF BARNEY AND OTHERS
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE. } Ejectment.

On the trial of this cause, I agree, on behalf of the defend
102 ants, that the deposition of Mrs. Hannah Kitty Chase, taken before a justice of the peace, may be read in evidence in proof of the relationship of the lessors of the plaintiffs named in the declaration, or if any of them, to Samuel Chase deceased, and also in proof of the time of the death of any person related to or connected with

any of the lessors or the said Samuel Chase by marriage, and have the same effect as if she were examined in open court.

WM. GWYNN,
Counsellor for City of Baltimore.

It is admitted that the plaintiffs shall not be required to show that the State of Maryland has, by grant, parted with her right to the land called Cole's Harbor or Todd's Range.

WM. GWYNN, *Coun'r of the City.*

In Baltimore county court.

BARNEY'S LESSEE
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE. } Ejectment.

The plaintiff claims all that ground as located on the plats in this cause, beginning at G, running thence to black S, to I, to N, to M, to L, to K, and then to G, then to a point northerly on Jones's Falls, east of the point G, and then to G, subject to the right of way over that part of the said ground in the said plats marked as Liffey street, and as said so-called street is extended southerly and easterly through the portion of ground distinguished by the letters I, n, m, L, K, I, K, on the plats aforesaid.

10th Sept., 1841.

CHARLES F. MAYER,
G. L. DULANY,
Att'ys for Pl't'fs.

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Whereupon the parties aforesaid, by their attorneys aforesaid, filed in court here, in said cause, the following agreement, to wit:

BARNEY AND OTHERS,
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE. } Ejectment.

It is agreed that the printed laws and ordinances referred to in the record in this case may be read in evidence in the court of appeals from the printed books in the same manner as if the same had been inserted at large in the record, and that they shall not be inserted in the record.

WM. L. MARSHALL, *for Defendants.*
G. L. DULANY, *for Plaintiffs.*

Whereupon, for trying the issue between the parties aforesaid above joined, it is ordered by the court here that twenty persons from the panel of jurors returned to the court here by the sheriff of Baltimore county aforesaid be drawn by ballot, according to the act of assembly in such case made and provided; and thereupon the twenty persons being so drawn by ballot and written upon two lists, one of which said lists is delivered to the counsel for the respective parties, and the counsel for each of the said parties having stricken out four persons from the said lists, thereupon the remaining twelve persons being called, come, that is to say, Robert Dutton, Alexander J.

104 Cost, George Bartlett, William Boggs, Charles F. Symington, George R. Dodge, William S. Browning, John D. Early, Thomas Bevans, Joseph Owens, Augustus C. Ludlow, and Simon C. Abraham, who, being impanelled and sworn to say the truth in the premises, upon their oath do say that the said defendants are not guilty of the trespass and ejectment aforesaid in manner and form as the said John Doe, lessee as aforesaid, above thereof against them hath declared; therefore, it is considered by the court here that the said John Doe, lessee as aforesaid, take nothing by his declaration aforesaid against the said defendants, but that he be in mercy, &c.

It is also considered by the court here that the said the mayor and city council of Baltimore, Job Smith, jun'r, Charles Harrison, Peter Fenby, John Quay, James Williamson, Thomas R. Matthews, and Samuel Hopkins, the defendants aforesaid, recover against the said Mary Barney, Ann Chase, Eliza Coale, William G. Ridgely, Samuel C. Ridgely, Nancy Ridgely, and Horatio Hollingsworth, and Emily his wife, the surviving lessors as aforesaid of the said John Doe, the sum of thirty-three dollars and twenty-two cents, by the court here unto the said defendants on their assent adjudged for them, costs and charges by them about their defence in this behalf expended, and that they have thereof their execution, and so forth.

Memorandum.

105 Before the jurors aforesaid withdrew from the bar of the court here, the said John Doe, lessee as aforesaid, by his attorneys aforesaid, filed in court here in said cause the following bill of exceptions, to wit:

BARNEY AND OTHERS
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE. } Ejectment.

The plaintiffs, to support the issue on their offered in evidence the deposition of Lewis Hart and the admission thereunto appended.

LESSEE OF BARNEY AND OTHERS
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE.

STATE OF MARYLAND, *City of Baltimore, to wit:*

On this seventeenth day of September, in the year eighteen hundred and forty, before the subscriber, a justice of the peace in and for the said city, appears Lewis Hart, and solemnly and truly affirmed that he was well acquainted with the late Judge Samuel Chase, of Baltimore; that said Chase departed this life on the nineteenth day of June, in the year eighteen hundred and eleven, and that he left as his only issue the following persons, to wit, his children, Thomas Chase,* Samuel Chase, junior, Matilda Ridgely, wife of Henry Ridgely, (which Henry died on or near the same day on which said Judge Chase died,) Nancy or Ann Chase, and Eliza Coale, widow of Skip-

with H. Cole; and further, said Hart deposes that said Matilda Ridgely died in the early part of the year eighteen hundred and
106 thirty-five, leaving the following persons as her only issue, to wit: William G. Ridgely, Hester Ridgely, Emily Hollingsworth, wife of Horatio Hollingsworth, Nancy Ridgely, Matilda Ridgely, and Samuel Chase Ridgely, all children of Matilda Ridgely, daughter of said Judge Chase; and further, that said Hester Ridgely has departed this life about a year of her mother's death. Affirmed before
SAM'L PURVIANCE.

*Add Mary Barney, who was also one of the children of Judge Chase, wife of William B. Barney, who died since the institution of this suit.

The above statement as to the issue of Judge Chase, and the several deaths therein mentioned, is admitted in *admitted in* evidence.
WM. GWYNN, *for Def'ts.*

Also, a deed from Samuel Bowley to Samuel Chase the elder; also a deed from Samuel Chase and Thomas Chase to the mayor and city council of Baltimore.

Daniel Bowley.—Deed to Samuel Chase.

MARYLAND, *ss:*

This indenture, made this twenty-fourth day of August, in the year seventeen hundred and ninety-six, between Daniel Bowley, of Baltimore county, gentleman, of the one part, and Samuel Chase, of the same county, gentleman, of the other part, witnesseth: Whereas the said Daniel Bowley and Richard Ridgely, two of the devisees of Thomas Harrison, on the eighth day of February, seventeen hundred and eighty-five, agreed
107 in writing with the said Samuel Chase to convey to him and his heirs in fee simple the piece or parcel of ground herein after particularly mentioned and described for the consideration of one thousand pounds current money, with interest till paid, to commence from the date of the deed for conveyance of the same. And whereas the Reverend William West, another of the devisees of the said Thomas Harrison, afterwards assented to the said contract, and whereof the legal title in the premises is at this time vested in the said Daniel Bowley, in virtue of a conveyance to him from the said Richard Ridgely, & from Margaret and Sibby West, the only two daughters and heirs of the Rev. William West above mentioned: Now this indenture witnesseth, that the said Daniel Bowley, for and in consideration of the sum of one thousand pounds current money to him paid by the said Samuel Chase, (the receipt whereof the said Daniel Bowley doth hereby acknowledge,) hath granted, bargained and sold, and by these presents doth grant, bargain, and sell unto the said Samuel Chase and his heirs (in his possession from the time of the contract aforesaid) all the following piece or parcel of land and marsh lying in Baltimore county aforesaid, (being part of a tract of land called "Cole's harbor, or Todd's range," and since known and distinguished by the name

of Harrison's marsh, and part of a small island of marsh that arose in the water of the basin of the northwest branch of Patapsco
108 river, to which island the said tract called "Cole's harbor, or Todd's range," and the marsh called Harrison's marsh, is the nearest contiguous land & marsh: beginning at the intersection of the south line of Water street with the west side of Jones's Falls, as last limited and established by the port wardens in December, 1794, & running thence west, and bounded by Water street for breadth about one hundred and seventy-three feet to the end of one hundred and one sixty feet from the east side of Market Space, and running from the end of the said one hundred and sixty feet south twelve degrees east, with a straight line drawn parallel with the said west side of Jones' falls, (limited and established as aforesaid,) for length fourteen hundred and twenty feet to the limits of the port wardens on the south side of Barre street, and running from the intersection of the said parallel line with the said limits, and bounded therewith for breadth one hundred and seventy-three feet to the west side of Jones's Falls,(limited and established as aforesaid,) and running thence with and bounded by the said west side of the said falls for length fourteen hundred and twenty feet to the place of beginning; saving & excepting out of the said parcel of ground above described, now and forever hereafter, as a street and highway, for the use of the public forever, (to be called by the name of Concord street,) the following piece or parcel of ground, to wit: Beginning at the end of
109 one hundred and sixty feet from the east side of Market Space & running thence east with Water street for width fifty feet, and thence south twelve degrees east parallel to said west side of Jones's Falls for length fourteen hundred and twenty feet to said limits of the port wardens on the south side of Barre street, and thence west with the said limits for width fifty feet, and thence to the beginning; with the appurtenances thereunto belonging, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and every part and parcel thereof, and all the right, title, interest, claim, and demand of the said Daniel Bowley of and to the premises: to have and to hold the same to the said Samuel Chase and his heirs, and to his and their only proper use and behoof forever; subject, nevertheless, to the saving and exception above mentioned, together with the reversion and reversions, remainder and remainders, rents and profits thereof, and all the right, title, interest, claim, and demand of the said Daniel Bowley of and to the premises; and the said Daniel Bowley for himself doth hereby covenant, promise, and agree to & with the said Samuel Chase, his heirs and assigns, respectively, that the said Daniel Bowley and his heirs will at any time hereafter, when required by the said Samuel Chase, his heirs or assigns, and at his or their expense, make and execute in due form of law and other and further deed for the better and more effectual conveying of the premises above described unto the said Samuel Chase, his heirs and ssigns; and that it shall and may be
110 lawful for the said Samuel Chase, his heirs and assigns, from time to time, and at all times hereafter forever peaceably and quietly to

hold, occupy, possess, and enjoy the premises above mentioned and described and hereby sold and conveyed or intended to be sold and conveyed to the said Samuel Chase, with the appurtenances, without let, suit, trouble, or claim of or by him, the said Daniel Bowley, his heirs or assigns, or of or by any person or persons lawfully and equitably claiming by, from, or under, or in trust from the said Daniel Bowley, his heirs or assigns.

In witness whereof the said Daniel Bowley hath hereto set his hand and affixed his seal the day and year first above mentioned.

DAN'L BOWLEY. [SEAL.]

Signed, sealed, and delivered in the presence of—the words "thence with and," in the 15th line, page 2, and the words "belonging" and "part" and 11, in lines 28 and 29 of same page, being first interlined; also the words "parallel to said west side of Jones's Falls," in the 24th line from the top of second page, being first interlined—

JOHN GORDON.
WILLIAM GORDON.

Received, the day of the date of the within indenture, from the within named Samuel Chase the sum of one thousand pounds current money, being the consideration money within mentioned.

DAN'L BOWLEY.

Witness: JOHN GORDON.

BALTIMORE COUNTY, *to wit:*

On the 24th day of August, seventeen hundred and ninety-
111 six, personally appeared before us, the subscribers, two of the justices of the peace for Baltimore county aforesaid, Daniel Bowley, party to the within deed, and acknowledged the said deed to be his act and deed, according to the true intent and meaning thereof, and the act of assembly in such case made and provided.

Acknowledged before—

JAMES CALHOUN.
GEO. GOULTH PRESBURY.

Received to be recorded the 24th day of August, 1796; same day recorded and examined.

P'r WM. GIBSON, *Cl'k.*

In testimony that the aforegoing is a true copy taken from the land records of Baltimore county court, in liber W G, folio 616, &c., I have hereto set my hand and affixed the seal of Baltimore county court this sixth day of September, eighteen hundred and thirty-one.

[SEAL.] WM. GIBSON, *C.*

Samuel Chase and Thomas Chase.—Deed of cession to the mayor and city council of Baltimore.

This indenture, made this thirteenth day of August, in the year of our Lord one thousand eight hundred and eighteen, between Samuel Chase, of the city of Baltimore, in Baltimore county and State of Maryland, and Thomas Chase, of the city of Annapolis, of the same

State, of the one part, and the mayor and city council of Balti-
112 more, of the other part. Whereas the said Samuel Chase and Thomas Chase, on the eleventh day of March, in the year of our Lord one thousand eight hundred and eighteen, did, by their letter of that date to a joint committee of the city council of Baltimore, (a copy said letter is hereunto subjoined,) agree with the mayor and city council of Baltimore aforesaid to bargain, sell, convey, and cede to the said mayor and city council all that piece or parcel of ground lying on the west side of Jones's Falls in the city of Baltimore aforesaid, known by the name of Liffy street, which said piece or parcel of ground in hereafter more particularly described; and whereas the mayor and city council aforesaid, by an ordinance of the city council, dated the eighteenth day of March, one thousand eight hundred and eighteen, entitled A further additional supplement to an ordinance entitled An ordinance for the improvement of the harbor of Baltimore, (having reference to the aforesaid letter marked T. R.,) did enact and ordain, among other things, that the said city would accept to accede to the cession of Liffy street aforesaid upon the terms mentioned in the said letter from the said Samuel and Thomas Chase, all which will more fully and at large appear by the said letter and ordinance, reference unto them respectively being had: Now this in-
denture witnesseth, that for and in consideration of the prem-
113 ises, and for the further consideration of the sum of five dollars, lawful money, to the said Samuel Chase and Thomas Chase paid by the mayor and city council of Baltimore aforesaid, at or before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, the said Samuel Chase and Thomas Chase have grant , bargained, and sold, ceded, conveyed, and released, and by these presents do grant, bargain, and sell, cede, convey, and release unto the mayor and city council of Baltimore aforesaid, all that space or parcel of ground situated, lying, and being on the west side of Jones's Falls in the city of Baltimore aforesaid, bounding on and with the water of the said falls, and extending therefrom westerly for breadth forty feet, and from the line of the south side of Water street southwardly for the length thereof two thousand five hundred and seventy-four feet, or thereabout, to the water of the basin, which was laid out as a street by Samuel Chase, esquire, deceased, the father of the parties hereto, of the first part, and called Liffy street, and is delineated on the plat subjoined to these presents, and comprehended within the lines A, B, B. C. C, and D, A. and the exclusive right to charge and receive any wharfage, tonnage, or other duties in the said
street: to have and to hold the aforesaid space or parcel of
114 ground unto the mayor and city council of Baltimore aforesaid, to the only proper use and behoof of the mayor and city council of Baltimore aforesaid forever, to the end, intent, and purpose, however, that the same space or parcel of ground shall henceforth forever remain open as a public street or highway for the benefit and accommodation of the citizens of Baltimore, and to be in like manner, as other streets heretofore condemned or recognized with the said city as streets or public highways, improved, supported, and main-

tained as such by and at the expense of the corporation of Baltimore whenever the improvements of the same by the said corporation shall be deemed expedient and proper, and be in common with other streets and highways within the said city, subject to such rules and limitations as may from time to time be established or adopted in relation to the same by the corporation of Baltimore aforesaid: provided, however, that neither the parties hereto, of the first part, nor those claiming under them, shall in any event, or under any regulation whatever, be bound to contribute towards defraying the expenses that may be incurred in filling up, paving, or otherwise improving the said street. And this indenture further witnesseth, that for and in consideration of the premises, and for the further consideration of the sum of one dollar apiece to the said parties hereto of the first
115 part by the parties hereto of the second part, at or before the sealing and delivery hereof, the receipt whereof the parties of the first part do hereby acknowledge, the said parties hereto of the first part have, and each of them hath, released, exonerated, and discharged, and by these presents do, and each of them doth, release, exonerate, and forever discharge. the corporation of Baltimore aforesaid from the operation and effect of the third section of an ordinance of the said corporation, passed on the twenty eighth day of May, one thousand eight hundred and fourteen, entitled A supplement to the ordinance entitled An ordinance for the improvement of the harbor of Baltimore, whereby it is enacted that the faith of the city be, and was thereby, pledged that no permanent building should be erected on the City Block, when finished, for twenty years from the date of that ordinance.

In testimony whereof, the said Samuel Chase and Thomas Chase have hereunto subscribed their names and affix their seals on the day and year first above written.

SAMUEL CHASE. [SEAL.]
THOMAS CHASE. [SEAL.]

Signed, sealed, and delivered by Samuel Chase in the presence of—
JARRETT HUTCHINS.

Signed, sealed, and delivered by Thomas Chase in the presence of—
GERARD GOVER.

116 STATE OF MARYLAND, *Baltimore county, sct:*

Be it remembered, and it is hereby certified, that on this seventeenth day of August, in the year of our Lord one thousand eight hundred and eighteen, before the subscribers, two justices of the peace of the State of Maryland in and for Baltimore county aforesaid, personally appear Samuel Chase and Thomas Chase, the parties of the first part named in the foregoing indenture or instrument of writing, and do acknowledge the same to be their act and deed.

In testimony whereof, we hereunto subscribe names on the day and year aforesaid, the words "and Thomas Chase" being first interlined in this certificate of acknowledgment.

FIELDER ISRAEL.
JOHN F. HARRIS.

Copy of letter referred to in the foregoing deed.

BALTIMORE, 11 *March*, 1818.

GENTLEMEN: In compliance with your wishes as a committee of the city council of Baltimore, I agree, on behalf of my brother Thomas Chase and myself, that the whole of Liffy street, on Jones's Falls, to the south line of our wharf of 40 feet wide, as laid out by our late father, be condemned as a public and highway forever, with the exclusive right to the city of Baltimore to charge and receive any wharfage, tonnage, or other duties on the said street; that the corporation may, if they deem it advisable, widen the said street, or any part thereof, by extending the same on the east side thereof into the falls;
117 that the said street and wharf be made and paved at the sole expense of the city; that the said wharf on the falls and street shall be kept in repair at the expense of the city as public street and highway forever. And I agree in like manner that the corporation may *in like manner that the corporation may* hereafter, if they deem it advisable, make a drawbridge to the east side of the falls, at the intersection of Lancaster and Columbia streets, to Liffey street; and I agree in like manner that my brother and myself will withdraw all objections to the improvement of the City Block by the corporation on the terms aforesaid, and on the corporation's making the drawbridge from the said block to Queen street, on Fell's Point, and making and paving the said street so extended on the block, and making Liffey street and Queen street a thoroughfare from the town to the point, and uniting the same as proposed by their ordinance passed 25 March, 1814, and designated on their plat B.

I am, gentlemen, your humble servant,

SAMUEL CHASE.
THOMAS CHASE.

The hon'ble JAMES BRAYS,
AMOS A. WILLIAMS, and
JAMES WILLIAMS,
Committee of the City Council of Baltimore.

Received to be recorded the 3d day of September, 1818. Same day recorded and examined

Pr. WM. GIBSON, *Cl'k.*

In testimony that the aforegoing is a true copy taken from the land records of Baltimore county court, in liber W G, No. 147, folio 48, &c., I have hereunto set my hand and affixed the seal of the
118 said court this nineteenth day of April, in the year of our Lord one thousand eight hundred and eighteen.

[SEAL.] WM. GIBSON, *Cl'k Balt. Co'ty C't.*

Also a permission of the defendants, the mayor and city council of Baltimore, to the said Samuel Chase the elder, of 1802.

An ordinance granting permission to Samuel Chase to extend his grounds herein described into the basin.

Whereas Samuel Chase, by his memorial, has set forth that he is seized and possessed in fee-simple of a piece or parcel of ground lying in the city of Baltimore, beginning at the intersection of the south line of Water street with the west side of Jones's Falls, and running thence west, bounded by Water street, to the end of one hundred and sixty feet from the east side of Market Space, for breadth one hundred and eighty feet, and thence to the limits of the port warden's line, on the south side of the line to Jones's Falls, and thence with the said falls to the beginning. And whereas the said Samuel Chase, by his said memorial, has prayed permission to extend his piece or parcel of ground for the breadth thereof into the basin:

Be it enacted by the mayor and city council of Baltimore, That permission be, and is hereby, granted to the said Samuel Chase, his heirs and assigns, to extend his ground above described for the width thereof into the basin as far as the south side of Lee street, and no further.

And be it enacted and ordained, That the said Samuel
119 Chase, his heirs and assigns, shall fill up above ordinary high-water mark, and leave open opposite to the end of Fleet street, on Fell's Point, sixty feet, as a public street or highway forever, and that the said Samuel Chase, his heirs and assigns, shall and do convey to the mayor and city council of Baltimore and their successors forty feet in length by fifty feet in breadth, being part of the said Samuel Chase's ground permitted to be extended into the basin, and will, when so extended, be part of and at the south end of Concord street, as a public wharf for the use of the corporation of the city of Baltimore forever: provided, that the said corporation shall never impose any greater or higher wharfage or vessels coming to lying at the said wharf, nor any articles landed from such vessel on said wharf of the city west of Concord street, as the said street is now or shall *or shall* hereafter be extended into the basin; and provided, also, that the said corporation shall not extend their said wharf further out into the basin, unless they grant permission to the said Samuel Chase and his heirs to extend his ground to the same distance they may or shall extend to the said wharf.

(Signed) PETER VINK,
President of the First Branch of the City Council.
JOHN MERRYMAN,
President of the Second Branch of the City Council.

Approved March 23d, 1802.

JAMES CALHOUN,
Mayor of the City of Baltimore.

CITY REGISTER'S OFFICE, *Balt'o, June* 12, 1841.

I hereby certify that the foregoing is a true copy of the
120 original ordinance on file in this office.

JESSE HUNT,
Register of the City of Baltimore.

Also the application of Chase the elder, of 1804, and the plat therein referred to.

To the Mayor and City Council of Baltimore:

The memorial of Samuel Chase, of Baltimore county, showeth that your memorialist, in consequence of permission granted him by an ordinance of the corporation made on the twenty-third day of March, in the year eighteen hundred and two, hath extended and wharfed, and for the greater part hath filled up the space in front and south of his ground for the width thereof into the basin as far as the south side of Lee street, agreeably to the said permission. Your memorialist further showeth that there is a flat or bar of mud, sand, and gravel opposite his wharf, and between a line drawn from the southeast corner of the said wharf (at the letter B) to intersect the northernmost line of channel (at the letter D,) and a line drawn from the northwest corner of said wharf (at the letter A) to intersect the northernmost line of the channel (at the letter C,) of different depths, say from eighteen inches to five feet, almost the whole of the above space between the said lines, and which flat or bar is shaded green, as in the plat hereto annexed; that unless this flat or bar is removed no vessel, except a scow, can come but very little north of the northernmost line of the channel now depending. This flat or bar is a great obstruction even to small vessels coming to the wharves or to
121 the head of the basin; they frequently run aground on the bar.

Your memorialist begs permission of the corporation to extend his wharf into the basin for the breadth thereof (180 feet) with a straight line from the southeast corner of his present wharf (on the south side of Lee street) for the length of 355 feet, and thence wite a straight line for the breadth of 180 feet to intersect the north sidh of the channel, as staked off and now deepening according to an ordinance of the corporation; and thence with a straight line to the northwest corner of his wharf. And your memorialist will ever pray, &c.

(Signed) SAMUEL CHASE.

Feb'y 13th, 1804, received and referred to the consideration of the city council.

(Signed) JAS. CALHOUN.

CITY REGISTER'S OFFICE, *Balt'o, Sept.* 29, 1840.

I hereby certify that the aforegoing is a true copy of the original memorial on file in this office.

In testimony whereof, I have hereto signed my name and affixed the corporate seal of the said city of Baltimore, on the day and year above written.

[SEAL.]

JESSE HUNT,
Register of the City of Baltimore.

The plat within referred to is annexed to the record, and marked F. Also the ordinance of 20th March, 1804, and the permission of the mayor of 1804 to said Chase the elder.

CITY OF BALTIMORE, *to wit* :

Permission is hereby granted to Samuel Chase, esquire, to
122 extend his wharf, situate on the west side of Jones's Falls and adjoining thereto, into the basin ; provided he shall leave a space of not less than fifty feet between said wharf so extended and the north side of the channel established by an ordinance of the mayor and city council of Baltimore, passed the eighteenth day of March, eighteen hundred and three ; and provided that the said Samuel Chase shall fill up the space or spaces opposite any street on Fell's Point and wharf in *in* a good and substantial manner, and fill up above ordinary high-water mark any street or streets adjoining the said wharf, and leave the same open as public streets and highways forever ; and provided also that the said Samuel Chase shall cause said wharf to be securely and well built, so as to contain its filling up, prevent any nuisance or injury arising to the harbor by bursting or otherwise, and shall in all respects comply with the ordinance granting permission to extend ground therein mentioned into the basin.

Given under the corporate seal of the city of Baltimore the second day of April, eighteen hundred and four.

[SEAL.] JAS. CALHOUN,
Mayor of the City of Baltimore.

Further to support the issue on this side the plaintiffs proved, by Lewis Hart, that he was the agent of Samuel Chase the elder, some time previous to the year 1806, to wit, from the year 1802 or
123 1804 until the death of said Chase, which occurred on the 18th June, 1811 ; that was employed to fill up Liffey street from Pratt street down to the south side of Lee street, which was raised out of the water above high tide the whole distance and for the breadth of 40 feet ; that on the east side of Liffey street it was logged to prevent injury from the water ; that the south side of Lee street was also logged for a wharf, and the whole of said filling up was, in common parlance, known as Hart's wharf, and was used by witness as a wharf ;that he was the tenant as well as agent of Mr. Chase. I agreed to lease from him the lot on the corner of Pratt and Liffey streets, upon which, in 1806, he put up the house marked on the plats in this cause as his, and some time thereafter received a lease for the same from the said Chase ; that the witness ran a fence and gate across Liffey street next to Pratt street, and used Liffey street southerly to Lee as a lumber yard, and that he so used it without asking privilege from anybody ; that Mr. Chase knew that he so used it, and made no objection to its use ; that he so erected a gate to keep persons from disturbing his boards or lumber ; that there was room for a cart and dray to pass along down Liffey s reet, though occupied as a board yard ; that anybody who pleased might and did pass along; no one was ever hindered, and that he continued to keep his

124 boarded in the same manner until after the declaration of war; that he did not lock the gate after the death of Mr. Chase, though he had locked it every evening during his life; that the gate and posts remained there until the battle of N. Point, when the soldiers who were lodged in his house took the same for fuel. The plaintiffs further prove by witness that, to the best of his recollection, Pratt street was filled up and the bridge built previous to the year 1796, and were used at that time as a common thoroughfare; that the water of the basin at ordinary high tide flowed at that time to the south side of Pratt street, where Liffey street now is, but at low tides the ground was bare. He also proved that the lot leased to him by the elder Chase ran back aa far as the east side of Concord street, and that the lot adjoining to his, marked fronting on Liffey street, 30 feet upon the plat, was also in like manner filled up by him under the direction of Chase, as well as the whole ground covered by the deed of 1808, of the elder Chase to his son Samuel, as early as the year 1808; that he also filled up, above high-water mark, a space of 150 feet in length, running north and south about midway between Wilkes street and the old port warden's line, and for breadth from the west side of Liffey street to the east side of Concord street; that said filling was intended by Mr. Chase as a tobacco warehouse,
125 and the filling was completed before his death. He further stated that after the year 1804, under the direction of Mr. Chase, *that* he filled up south of Lee street, on the west side of Liffey street as now extended, and between it and Union dock southerly to I and R, on the plats for width about 30 or 40 feet, running easterly from the line shown by R, a wharf was made, abutting on the basin from R, of about 30 feet in width to S, and that from S to I was filled up and logged where it was bounded by the basin, and from thence running back about 30 feet, but was not a part of the wharf; that the residue of the permission of 1804 was left unfinished and covered by water, and that it continued in this incomplete state after the death of Mr. Chase until the year 1818, when the city commenced the filling up what remained to be done to Liffey street, and the city then commenced the formation of the City Block, which were completed as they now are about the year 1826; and that at the institution of this suit, and long before the whole of Liffey street, and all the land to which the several permissions of Chase the elder extended, as well as the City Block, were filled up above high-water mark, and said City Block is correctly delineated on the plats in this cause, and was filled up and completed according to plat B. It is also admitted that the defendants were in possession of the City Block, claiming exclusive title therein at the time this action was
126 brought, and that they continued in possession now; that the city were at the institution of this suit, and now are also, in the enjoyment of the wharfage along the east line of Liffey street where it is bounded by Jones's Falls, and at the southern termination of said street upon the basin.

The plaintiffs, to support the issue on their part, offered in evidence the ordinance of 23d July, 1813, 25th March and 28th May, 1814;

also the ordinance of 18th March and 23d July, 1818, and of the 23d of February, 1820, and of the 18th February, 1826; and also plats A and B, referred to in the ordinance of 25th March, 1814, (here insert them—see agreement;) also the act of 1817, chapter 148; and further proved, by Alexander J. Boulden, esqr., surveyor of Baltimore county, and by whom the plats were made and returned in this case, that all the locations are correctly made as laid down on said plats

The defendants then, to support the issue on their side joined, gave in evidence to the jury the following deeds and leases, to wit: (here insert all the deeds and leases located by the defendants for the roperty between Water and Pratt streets—see agreement annexed;) and proved, by Alexander J. Boulden, esq., the surveyor of Baltimore county, that the same were truly located on the plats in this cause.

The defendants also gave in evidence to the jury the following deeds, to wit:

Samuel Chase.—Lease to Lewis Hart.

MARYLAND, *ss*, *Baltimore county, to wit:*

127 This indenture, made this twenty-first day of October, in the year of our Lord one thousand eight hundred and six, between Samuel Chase, of Baltimore county, gentleman, of the one part, and Lewis Hart, of the city of Baltimore, carpenter, of the other part, witnesseth: That the said Samuel Chase, for and in consideration of the rent hereinafter reserved and performance of the covenants hereinafter mentioned on the part of the said Lewis Hart, his executors, administrators, and assigns, to be paid and performed, hath granted, demised, and leased, and by these presents doth grant, demise, and lease unto the said Lewis Hart all that part of a lot or parcel of ground lying in the city of Baltimore, on the west side of the water heretofore called by the name of Jones's Falls, (and now called, below the bridge at Pratt street, by the name of the Liffey,) delineated and described in a plat, made by the said Samuel Chase, by the number twenty-two: Beginning for the said part of said lot or parcel of ground at the end of the thirty-four feet from the intersection of Pratt street and Concord street, and running thence, with Pratt street for breadth, twenty-five feet to a lot or parcel of ground distinguished on the said plat by the number twenty-one; thence, with said lot for depth, sixty-eight feet to a lot also distinguished on the said plat by the number twenty-four; and thence, with said lot for breadth, twenty-five feet, and thence with a straight line to the place of beginning. And also all that other lot or parcel of ground lying in the said city, and adjoining to the lot or parcel of
128 ground hereinbefore described and distinguished on the said plat by the number twenty-one—beginning for the same at the end of the fifty-nine feet from the intersection of Pratt street and Concord street, and running thence, with Pratt street for breadth, thirty feet to the west side of a street of forty feet wide laid off by the said Samuel Chase from Pratt street, and adjoining the said water

heretofore called Jones's Falls, and now called the Liffey, to the south side of Lee street, *and called the Liffey;* and running thence, with the west side of the said street for depth, sixty feet to a lot distinguished on the said plat by the number twenty-four; and thence, with the said lot for breadth, thirty feet, distinguished on the said plat by the number twenty-two; and thence, with the said lot for depth, sixty-six feet to the place of beginning, together with all the privileges and advantages to the said lot or parcel of ground belonging or in anywise appertaining: to have and to hold the said lots or parcels of ground above described, with the appurtenances, unto the said Lewis Hart, his executors, administrators, and assigns, from the thirty-first day of the present month of October for and during and until the full end and term of ninety-nine years thence next ensuing, fully to be complete and ended; yielding and paying for the said demised premises yearly, and every year during the said term, to the said Samuel Chase, his heirs and assigns, the yearly rent or sum of two hundred dollars
dollars, money of the United States, free and clear of any discount
129 or deduction whatsoever for taxes or assessments or any other public dues or charges of any kind or nature whatsoever, civil or military, which may at any time hereafter be laid, imposed or levied by Congress or the legislature of this State, or by any other authority whatsoever, on the demised premises above mentioned and described, or on any part thereof, or on any building or buildings erected thereon, or on the ground rent reserved as aforesaid, or on any estate or interest of him the said Samuel Chase, his heirs or assigns, in the said demised premises, or on the said ground rent reserved as aforesaid, in two half-yearly payments during the continuance of this present demise; provided always, and these presents are upon this condition nevertheless, and it is the true intent and meaning of these presents, and of the parties thereto, that if the said yearly rent or any part thereof, without any discount or deduction whatsoever, of any kind or nature whatsoever, as hereinbefore mentioned, shall be in arrear and unpaid in all or in part by the space of thirty days next after any of the days hereinbefore mentioned, and limited for payment of the said rent, although no demand thereof should be lawfully made, that then it shall and may be lawful to and for the said Samuel Chase, his heirs and assigns, and any of them, to make distress therefor or into the said demised premises or any part thereof, in the name of the whole to re-enter, and the same to have again and repossess, occupy, and enjoy as in his
130 or their former estate and right, and the said Lewis Hart, his executors, administrators, or assigns, and all other occupiers and possessors of the said demised premises or any part thereof, thereout and from thence utterly expel, put out, amove, until all such arrears of rent, with legal interest therefor, and all and every cost, charge and expense incurred by the said Samuel Chase, his heirs or assigns, by reason of the non-payment of the said rents, shall be fully satisfied and paid; and provided also, and these presents are upon this further condition nevertheless, and it is the true intent and meaning of these presents and of the parties thereto, that if the said

yearly rent, without any discount or deduction whatsoever of any kind or nature whatsoever, as hereinbefore mentioned, shall be in arrear and unpaid by the space of one year next after any of the days hereinbefore mentioned and limited for the payment of the said rent, although no demand therefor should be lawfully made, that then it shall and may be lawful to and for the said Samuel Chase, his heirs and assigns, and every of them, unto the said demised premises or any part thereof, in the name of the whole, to re-enter and the same to have again, repossess, occupy and enjoy, as in his or their former estate and right, as if this lease had never been made, and the said
131 Lewis Hart, his executors, administrators, and assigns, and all other the occupiers and possessors of the said demised premises or any part thereof, thereout and from thence utterly to expel, put out and amove; and on such default in payment of the said rent, this deed and every clause, matter and thing herein contained shall from thenceforth be utterly void and of no effect, both in law and in equity, to every intent and purpose whatsoever, and the term and estate hereby granted shall absolutely and forever cease and be utterly void, both in law and equity, to every intent and purpose whatsoever, this indenture or anything herein contained to the contrary thereof in anywise notwithstanding, and the said Lewis Hart for himself, his heirs, executors, administrators, and assigns, and every of them, doth hereby covenant and grant to and with the said Samuel Chase, his heirs and assigns, in manner and form following: that is to say, that he the said Lewis Hart, his executors, administrators and assigns, or some of them, shall and will, within the term of two years from the date hereof, erect and build good and substantial improvements of brick or stone on the said demised , of the full yearly value of the ground rent reserved as aforesaid, and if such improvements shall not be erected and built on the said demised premises within the said term of two years from the date hereof, that then the said Lewis Hart, his executors, administrators and assigns, or some of them, shall and will well and truly pay or cause to be paid to the
132 said Samuel Chase, his heirs or assigns, the annual sum of one hundred dollars, money of the United States, exclusive of and in addition to the yearly rent reserved as aforesaid, until such improvements shall be erected and built; and also that the said Lewis Hart, his executors, administrators and assigns, and every of them, shall not at any time hereafter erect and build or permit or cause to be erected or built on the said demised premises or any part thereof, any other than brick or stone buildings; and also, that the said Lewis Hart, his executors, administrators and assigns, or some of them, shall and will from time to time and at all times hereafter during the term hereby granted well and truly pay or cause to be paid to the said Samuel Chase, his heirs or assigns, the yearly rent above reserved, without any discount or deduction whatsoever of any kind or nature whatsoever, as hereinbefore mentioned, at the days and times hereinbefore mentioned and limited for the payment of the said rent, and in such manner and form as the same is hereinbefore reserved and made payable, without fraud or delay, according to the purport and true

intent and meaning of these presents; and further, that the said Lewis Hart, his executors, administrators and assigns, or some of them, shall and will at all times hereafter during the said term hereby demised, bear, pay, and discharge all taxes or assessments and
133 all other public dues or charges of every kind or nature whatsoever, (civil or military,) which shall or may be at any time hereafter be laid, imposed, assessed, or levied by Congress or the legislature of this State, or by any other authority whatsoever, on the premises above demised or on any part thereof, or on any building or buildings erected thereon, or on the ground rent reserved as aforesaid, or on any estate or interest of him the said Samuel Chase, his heirs or assigns, in the above demised premises, or on the ground rent reserved as aforesaid, and thereof and from every part thereof shall and will forever acquit, exonerate and discharge as well the said Samuel Chase, his heirs and assigns, as also the said hereby demised premises, it being the true intent and meaning of these presents and of the parties thereto that the said Samuel Chase, his heirs and assigns, shall have and receive the said whole yearly rent hereby reserved free and clear of and from all manner of taxes or assessments and of and from all other public dues or charges of any kind or nature whatsoever, and without any discount or deduction whatsoever of any kind therefor, as hereinbefore mentioned. And the said Samuel Chase for himself, his heirs and assigns, and for every of them, doth hereby covenant and agree to and with the said Lewis Hart, his executors, administrators and assigns, in manner and form follow-
134 ing: that is to say, that the said Lewis Hart, his executors, administrators and assigns, respectively, on the payment of the rent hereinbefore reserved and performance of the covenants hereinbefore mentioned, on his and their part respectively to be paid and performed, shall and may peaceably and quietly have and hold, use, occupy, possess, and enjoy the above demised premises with the appurtenances for and during the aforesaid term of ninety-nine years, without any let, trouble, eviction, expulsion, or interruption of him the said Samuel Chase, his heirs or assigns, or any other person claiming under him or them; and also that he the said Samuel Chase, his heirs and assigns, at any time or times hereafter during the continuance of this present demise, on the request and at the cost and charge of the said Lewis Hart, his executors, administrators or assigns, and on his and their paying or tendering in payment to him the said Samuel Chase, his heirs or assigns, the sum of two hundred dollars, money of the United States, shall and will make, execute and acknowledge, or cause to be made, executed and acknowledged in due form of law, a good and sufficient new lease of the above demised premises for other ninety-nine years, to commence and take effect from and at the end of the term for which the said premises are above
135 demised, subject to the payment of the same clear net annual rent hereby reserved and payable as aforesaid, without any discount or deduction whatsoever of any kind or nature whatsoever, as hereinbefore mentioned, and under the same covenants as are

hereinbefore expressed, so that this present demise may be from time to time renewable and renewed forever.

In witness whereof, the parties above mentioned have hereunto set their hands and affixed their seals on the day and year first above written.

SAMUEL CHASE. [SEAL]
LEWIS HART. [SEAL.]

Signed, sealed, and delivered in the presence of—
GEORGE DUGAN.
GEORGE WILLIAMS.

MARYLAND, *sct., Baltimore county, to wit* :

On the twenty-ninth day of November, in the year of our Lord, one thousand eight hundred and six, personally appeared before me, the subscriber, one of the associate judges of the sixth judicial district of the said State, the above-named Samuel Chase and Lewis Hart, parties to the above deed of indenture, and severally acknowledged the said deed to be their respective act and deed according to the true intent and meaning thereof, and the act of assembly in such case made and provided; and at the same time came before me
136 Hannah Kitty Chase, wife of the said Samuel Chase, who, being examined by me privately and out of the hearing of her said husband, acknowledged that she released all her right and title of dower of and in the said lot or parcel of ground in the said deed mentioned and described, and that she made the said acknowledgment willingly and freely, and without being induced thereto by fear or threats of or ill usage by her said husband or fear of his displeasure.

Acknowledged before and certified by
ZEB. HOLLINGSWORTH.

Received to be recorded the 8th day of December, 1806. Same day recorded and examined.

Per WM. GIBSON, *Clerk.*

In testimony that the aforegoing is a true copy taken from liber W G, No. 92, folio 83, &c., one of the land record books of Baltimore county court, I have hereunto set my hand and affixed the seal of Baltimore county court this 20th day of April, 1841.

[SEAL.] THOS. KELL.
Clerk Baltimore County Court.

Samuel Chase the elder to Samuel Chase the younger.

MARYLAND, *sct :*

This indenture, made this twenty-seventh day of August, in the year of our Lord one thousand eight hundred and eight, between Samuel Chase the elder, of Baltimore county, gentleman, of the one part, and Samuel Chase the younger, of the same county,
137 gentleman, of the other part, witnesseth: That the said Samuel Chase the elder, as well for and in consideration of the natural

love and affection which he, the said Samuel Chase the elder, hath and beareth to the said Samuel Chase the younger, as also for and in consideration of the sum of one dollar, money of the United States, to him the said Samuel Chase the elder in hand paid by the said Samuel Chase the younger at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath given and granted, bargained and sold, and by these presents doth give and grant, bargain and sell unto the said Samuel Chase the younger, his heirs and assigns, all those five lots or parcels of ground lying in the city of Baltimore, on the west side of the water below the lower bridge at Pratt street extended, and between the said street and Wilkes street, the said water below the said lower bridge heretofore called by the name of Jones's Falls, but now called by the name of the Liffey, delineated and described on a plat made by the said Samuel Chase the elder by the number twenty-five, twenty-six, twenty-seven, twenty-eight, and twenty-nine. Beginning for the said five lots or parcels of ground at the end of ninety feet from Pratt street extended, at the southeast corner of lot number twenty-four, also delineated on the said plat, and running thence *thence*
southerly with and binding on the said street, called Lifley
138 street, also delineated on the said plat, for length one hundred
and fifty feet, to the northeast corner of lot number thirty, also delineated on the plat, and running with and binding on the said lot number thirty for breadth ninety feet, to a street called Concord steet, also delineated on the said plat, and running thence northerly with and binding on the said street for length one hundred and fifty feet, to the southwest corner of lot number twenty-four, and thence running with and bounding on the said lot, to the place of beginning, together with all and singular the advantages and appurtenances to the said five lots and premises hereby mentioned or intended to be given, granted, bargained and sold unto the said Samuel Chase the younger, as aforesaid, or any part or parcel thereof belonging or in anywise appertaining to the said premises, and all the estate, right, title, interest, property claim and demand whatsoever of him the said Samuel Chase the elder, of, in, and to the said five lots and premises, and of, in, and to every part and parcel thereof, with their and every of their appurtenances: to have and to hold the said five lots of ground hereby given and granted, bargained and sold, or intended so to be, with their and every of their appurtenances, unto the said Samuel Chase the younger, his heirs and assigns, to the only proper use and behoof of him the said Samuel Chase the younger, his heirs and assigns forever. In witness whereof, the said
139 Samuel Chase the elder hath hereunto set his hand and seal the day and year hereinbefore written.

SAMUEL CHASE. [SEAL.]

Signed, sealed, and delivered in the presence of—
OWEN DORSEY.
E. I. COALE.

Received, on the day of the date within mentioned, the sum of one dollar, money of the United States, it being the consideration money within mentioned.

SAMUEL CHASE.

Witness: OWEN DORSEY.

MARYLAND, *sct.*, *Baltimore county, to wit:*

Be it remembered, that on this 27th day of August, in the year of our Lord one thousand eight hundred and eight, personally appeared Samuel Chase the elder, of Baltimore county, party grantor, mentioned in the within deed, before us the subscribers, two of the justices of the peace of the county aforesaid, and acknowledged the said deed to be his act and deed, and the land and premises therein mentioned to be the estate of the said Samuel Chase the younger, his heirs and assigns forever, according to the true intent and meaning of the said deed and the act of assembly in such case made and provided.

Acknowledged before—

OWEN DORSEY.
E. I. DORSEY.

Received to be recorded the 25th day of February, 1809. Same day recorded and examined.

Per WM. GIBSON, *Cl'k.*

In testimony that the foregoing is a true copy, taken from liber W G, No. 102, folio 5, &c., one of the land records of Baltimore county, I have hereto set my hand, and affixed the seal of Baltimore county court, this 19th day of April, 1841.

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[SEAL.]

THOS. KELL,
Cl'k Balt. County Court.

Samuel Chase the elder.—Deed to Samuel Chase, jr., and Thomas Chase.

This indenture, made this eighth day of June, in the year of our Lord one thousand eight hundred and eleven, between Samuel Chase the elder, of Baltimore county, in the State of Maryland, of the one part, and Samuel Chase the younger and Thomas Chase, both of the county and State aforesaid, sons of the said Samuel Chase the elder, of the other part, witnesseth, that the said Samuel Chase the elder, as well for and in consideration of the natural love and affection which he hath and beareth unto his said two sons, Samuel Chase the younger and Thomas Chase, as also for and in consideration of the sum of five dollars, lawful money of the United States, to him in hand paid by the said Samuel Chase the younger and Thomas Chase, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath given, granted, bargained, and sold, aliened, enfeoffed, and conveyed, and by these presents doth give, grant, bargain, and sell, alien, enfeoff, and convey unto the said Samuel Chase the younger and Thomas Chase, their heirs and assigns forever, all that piece or parcel of ground situate, lying, and being in the city of Baltimore, in the county aforesaid, which is contained within the metes and bounds, courses and distances following, that is to say: Beginning for the same on the west

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side of Liffey street, at the distance of two hundred and forty feet southerly from the south side of Pratt street, and running thence southerly, bounding on the west side of Liffey street to the southernmost extent of the wharf made by the said Samuel Chase the elder into the basin; thence northwesterly with the said wharf and basin to Union dock; thence northerly with the east side of the said dock to the head thereof on the south side of Wilkes street, where extended; thence westerly, binding on the line of the said south side of Wilkes street to Concord street; thence northerly, bounding on the east side of Concord street until it intersects a line drawn westerly parallel with Pratt street from the beginning, and thence bounding on the line so drawn reversely, to the place of beginning; together with the improvements thereupon made, and all and every the rights, liberties, privileges, appurtenances, and advantages to the same belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, of every part and parcel thereof; to have and to
142 hold the above-described piece or parcel of ground or land and premises, with their and every of their appurtenances, unto the said Samuel Chase the younger and Thomas Chase, their heirs and assigns, to the only proper use and behoof of the said Samuel Chase the younger and Thomas Chase, their heirs and assigns forever, and to and for none other use or purpose whatsoever. And the said Samuel Chase the elder, for himself, his heirs, executors, and administrators, doth hereby covenant, promise, grant, and agree, to and with the said Samuel Chase the younger and Thomas Chase, their heirs and assigns, that he the said Samuel Chase the elder, and his heirs, shall and will, at all times hereafter, whenever required thereto by the said Samuel Chase the younger and Thomas Chase, their heirs and assigns, or any or either of them, at their own proper cost and charge in the law, do, make, execute, acknowledge, and deliver, or cause and procure to be done, made, executed, acknowledged, and delivered, all such further and other acts, deeds, assurances, and conveyances in the law as they the said Samuel Chase the younger and Thomas Chase, their heirs or assigns, or any of them, their or any of their counsel, may advise, devise, or require, for the more effectual assuring and conveying to the said Samuel Chase the younger and Thomas Chase, their heirs and assigns, the piece or parcel of ground
143 or land and premises aforesaid, with appurtenances thereto belonging, forever; provided, nevertheless, that the said Samuel Chase the elder shall have full power and authority, by deed or deeds in due form of law, executed from time to ti me, to make lease or leases, demises or grants, of the whole or any part of the above described premises, unto any person or persons, for the term of ninety-nine years, renewable forever, so that every such lease shall be for the best rent that can be obtained for the same, and that the rent reserved be made payable every six months to the said Samuel Chase the elder during his life, and after his death to the said Samuel Chase the younger and Thomas Chase and their heirs and as-

signs forever; and which said leases shall contain usual and reasonable covenants.

In witness whereof, the said Samuel Chase the elder hath hereunto subscribed his name and affixed his seal on the day and year first above written.

SAMUEL CHASE. [SEAL.]

Signed, sealed, and delivered, in presence of—N. B., the words "or persons" being previously interlined, between the third and fourth lines of this page—

KITTY CHASE.

Received, on the day of the date of the foregoing deed, of and from the within-named Samuel Chase the younger and Thomas
144 Chase, the sum of five dollars, being the consideration money mentioned in the said deed.

SAMUEL CHASE.

Witness: KITTY CHASE.

STATE OF MARYLAND, *sct.*, *Baltimore county, to wit:*

Be it remembered, that on this eighteenth day of June, in the year of our Lord one thousand eight hundred and eleven, before the subscriber, chief judge of the third judicial district, personally appeared Samuel Chase the elder, of Baltimore, the party grantor within named, and acknowledged the foregoing deed or instrument of writing to be his act and deed, and the piece or parcel of ground or land and premises thereby mentioned to be given, granted, bargained, and sold to be the right and estate of the within named Samuel Chase the younger and Thomas Chase, parties grantors therein also named, their heirs and assigns forever, according to the purport, true intent, and meaning of the said deed or instrument of writing and the act of assembly in such case made and provided. In testimony whereof I hereunto subscribe my name on the day and year aforesaid. Acknowledged before

JEREMIAH TOWNLEY CHASE.

Received to be recorded the 3d day of July, 1811. Same day recorded and examined.

Per WM. GIBSON, *Cl'k.*

In testimony that the aforegoing is a true copy, taken from liber W G, No. 114, folio 76, &c., one of the land record books of Baltimore county court, I hereto set my hand and affix the seal of said court, this 21st day of September, 1840.

[SEAL.] THOS. KELL, *Cl'k.*

145 And the deed or deeds from the trustees, Messrs. Meredith and Chase, purchasers of the property south of Pratt street, (here insert them,) and proved that the same were truly located on the plats in this cause.

Whereupon the plaintiffs prayed the court to instruct the jury—

1. The plaintiff prays the court to direct the jury that the plaintiff is entitled to recover if they find that the deed, as read in evidence, was executed, acknowledged, and recorded, from Daniel Bowley to

Samuel Chase, and that the said ground is part of Cole's Harbor or Todd's Range, and that said Chase was seized of the ground purported to be conveyed by said deed as located on the plats, and that, in the manner stated in the testimony, he died seized of the said ground, or of the greater part thereof, and particularly of that part laid down on the plats as within the lines of Liffey street, as far as the basin, in part fast land, and in part covered with water, except at low water. That said Chase in his lifetime made the several fillings up within the lines of the plaintiff's pretensions in this cause, as set forth in the testimony and on the plats aforesaid, and that the same wharf permissions, and the ordinances read in evidence, were granted and erected in respect of the enlargement and extension of said Chase's ground and wharf, and of the making out into the
146 basin of the land designated as running from K to I, to n, to m, to L, to K, and also in respect of the improvement of Jones's Falls, and fixing the extent and lines of improvements by the making of the City Dock, and the straightening and working of the falls on the eastern side down to the City Dock, and that the lessors of the plaintiff are the children and descendants of said Chase, as stated in the admissions in this cause.

2. If the jury believe the facts stated in the plaintiff's first prayer, and also the execution of the deed from S. & T. Chase to the mayor and city council of Baltimore, and the acceptance of the same by them, then the plaintiff in this action are tenants in common with the said corporation. That the filling up of what remained to be done of Liffey street, and the formation of the City Block by the latter, as stated in the evidence, enured to the benefit of all the tenants in common, and that the plaintiffs are entitled to recover according to their pretensions; provided they shall further find that the property which was to be filled up by the several permissions to S. Chase the elder were so filled up above ordinary high-water mark, according to said permissions, and that the City Block was actually constructed as designed at the time of the institution of this suit.

3. The plaintiffs further prayed the court to instruct the jury that, if they believe that the deed of Samuel Chase and Thomas Chase to the mayor and city council of Baltimore was duly executed
147 and delivered, and by the mayor and city council accepted, and that they claimed the property in Liffey street under said deed, then the acceptance of the said, and the said claim thereunder, is sufficient evidence of ouster to support this action of ejectment.

Which instructions the court refused to give. Whereupon the plaintiff prayed leave to accept, and that the court would sign and seal here their bill of exceptions.

The defendants also, upon the aforesaid evidence, prayed the court to instruct the jury—

1st. The defendants, by their counsel, pray the court to instruct the jury that if they shall find, from the evidence in the cause, that the wharf called the Public Wharf, located on the plats of defendants, was, at and before the year 1798, and ever since, a public wharf, and that the street called Liffey street was made in continuation of said

wharf, and of the same breadth as the said wharf, to the south side of Lee street, and subsequently to the basin, then the plaintiffs are not entitled to recover in this suit, upon the ground the said Liffey street, when made, was but an extension and continuation of said public wharf, and became and remained a public street without any private right of property in the said plaintiffs.

2d. The defendants, by their counsel, pray the court to instruct the jury that if they shall find, from the evidence in the cause, that the line Y Z is the most southerly line of the tract of land called Cole's Harbor or Todd's Range, and that the said line is truly located on the plats, and that no part of the plaintiffs' pretensions lies within the lines of Cole's Harbor and Todd's Range, except so much
148 of said street called Liffey street as lies north of said line, that then the plaintiffs are not entitled to recover any part of the ground claimed in their pretensions which lies south of said line is not parcel of the said tract called Cole's Harbor and Todd's Range.

3rd. The defendants, by their counsel, pray the court to instruct the jury that the plaintiffs, upon the evidence in the cause, have not shown by legal and competent proof that Samuel Chase the elder, under whom they claim, died seized of the property located by the plaintiffs as the City Block, and embraced in their pretensions, and that the plaintiffs are not entitled in this suit to recover said City Block, or any part thereof.

4th. The def'ts, by their counsel, pray to instruct the jury that if they shall find, from the evidence in the cause, that Samuel Chase the elder, under whom the plaintiffs claim, made, and executed, and delivered the several leases and deeds offered in evidence by the def'ts, and shall further find, from the evidence in the cause, that at the time of the execution and delivery of the deed from said Samuel Chase the elder to Samuel Chase, jr., and Thomas Chase, no part of said street called Liffey street was made south of the southerly line of Lee street, and that no part of the City Block was then made or perfected to be made, then the pl'ffs have no right in this suit to recover, upon the evidence in the cause, any pretence of Liffy street lying south of the southerly line of Lee street, nor any part of the property located in the City Block. Granted, but not for the
149 reasons therein stated, but because the plaintiffs have not shown any title to the City Block, and because, altho' they have shown title to Liffey street, yet, as it is a public highway by dedication and contract with the city, ejectment will not lie to recover it.

5th. The defendants, by their counsel, pray the court to instruct the jury that if they shall find, from the evidence in the cause, that Samuel Chase the elder sold to the several persons to whom he made the leases and conveyances which have been offered in evidence by the def'ts in this cause, and described the lots so sold as binding on said street called Liffey street, and that said street called Liffey street is truly located on the plats in the cause, agreeably to said several conveyances, that the said street thereby became a public street.

6th. The defendants, by their counsel, pray the court to instruct the

jury that if they shall find, from the evidence in the cause, that Liffey street is a public street of the city of Baltimore, and that the defendants have not used or entered upon the same in any manner or for any purpose other than to make use of it as a public street, then the plaintiffs are not entitled, upon the evidence in the cause, to maintain this action in respect of so much of their pretensions as forms said street called Liffey street.

150 7th. The defendants, by their counsel, pray the court to instruct the jury that if they shall find, from the evidence in the cause, that the permission granted to Samuel Chase on the 2d of April, 1804, offered in evidence by the plaintiffs, is truly located on the plats in this cause, and shall further find that no other or further permission was granted to said Samuel Chase in his lifetime, or to the pl'tffs, that then the pl'tffs have no right, in virtue of said permission of 1804, to any part of the property covered by their pretensions, beyond the eastern limits of the line from D to I. Granted, but for a different reason. The court believe that the plaintiffs would acquire no right by permission to any land not in front of his lot, and therefore could not have title to the land east of the line from D to I.

8th. The def'ts. by their counsel, pray the court to instruct the jury that if they shall find, from the evidence in the case, that after the permission granted to Samuel Chase on the 2d of April, 1804, nothing was done by said Samuel Chase in his lifetime in execution of said permission other than what was done in the construction of Union dock, as stated in the evidence of the witness Lewis Hart, and that the extent of the filling up south of Lee street, made in the lifetime of Samuel Chase, was on the east side of Union dock, from the point designated by red E to the point R, and from the point R to the

151 point I, and that said improvements along the line from red E towards red D, was only of the width from the point red E, eastwardly, for the passage of a cart, and that along the line from red E to R it continued of the same and no greater width, and that the improvement was of the like and no greater width from R to I, and that said Samuel Chase, on the —— day of August, 1811, executed and delivered the deed which has been offered in evidence in this case, from him to his sons, Samuel and Thomas, and that the water of the basin then flowed south of Lee street, over all the space comprehended with the area by red E to red D, and thence back to red S, except the improvement aforesaid, from red E to R to I, and that said Chase afterwards departed this life without having done anything more under said permission; then the pl'ffs, as heirs of said Chase the elder, have not, in virtue of said permission, acquired any right to any part of the property covered by their pretensions south of the southerly line of said street, called Lee street.

All which, except the 1st, 2d and 8th, being granted by the court, the plaintiffs prayed leave to except, and that the court would sign and seal this their bill of exceptions. The defendants' 1st, 2d, and 8th prayers being rejected, the defendants pray leave to except, and that the court will sign and seal here their bill of exception,

which is here done. It was agreed between the parties that
152 either might read in the court of appeals, in the argument of this cause, any ordinances of the city of Baltimore *have* relevancy to this controversy from the book of Ordinances, published by authority of the city, in the same manner as if the said ordinances were inserted particularly in this exception.

[SEAL.] STEVENSON ARCHER.

And afterwards, at the January term of the said court, in the year of our Lord one thousand eight hundred and forty-two, to wit, on the thirty-first day of March, in the same year, the parties aforesaid, by their attorneys aforesaid, filed in court here, in said cause, the following agreement, to wit:

BARNEY AND OTHERS
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE.

It is agreed that the fee in the lots located by the defendants in the above case was extinguished by the deeds given in evidence by the defendants, from Samuel Chase, senior, to the grantees named, and the deeds from Messrs. Meredith and Chase, after the death of the said Samuel Chase, senior. It is also agreed that none of the said deeds shall be inserted in the record, but that the same may read in evidence on the trial of this case, to have the same effect as if inserted therein.

G. L. DULANY, *Att'y for Pl'ffs.*
153 WM. L. MARSHALL, *Att'y for Def'ts.*

And thereupon the parties aforesaid, by their attorneys aforesaid, pray an appeal from the judgment aforesaid, so as aforesaid rendered to the court of appeals for the Western Shore of the State of Maryland, and to them it is granted. It is therefore ordered by the court here that a transcript of the record and proceedings in the cause aforesaid, with all things thereunto relating, be transmitted to the said court of appeals, and the same is transmitted accordingly.

Test: THOS. KELL, *Clerk.*

In testimony that the aforegoing is a full and true transcript of the proceedings in the cause aforesaid, taken from the record of proceedings of Baltimore county court, I have hereto subscribed my name and affixed the seal of said court this eleventh day of April, 1842.

[SEAL.] THOS. KELL,
Clerk of Baltimore County Court.

And now come into the court of appeals here, as well the said John Doe, lessee as aforesaid, by Grafton L. Dulany and Charles F. Mayer, his attorneys, and the said mayor and city council of Baltimore and others, by William L. Marshall and William Schley, their attorneys; and thereupon, on motion of the said mayor and city council of Baltimore and others, by their attorneys aforesaid, it is ruled by

154 the court here that the said John Doe, lessee as aforesaid, assign the errors in the record of proceedings aforesaid, or in the giving the judgment aforesaid, so as aforesaid before the court of appeals here, correcting the errors supposed to be therein, or judgment by the court of appeals here will be entered against him in default thereof; and the said John Doe, lessee as aforesaid, by his attorneys aforesaid, says that in the record of proceedings aforesaid, and also in the giving of judgment aforesaid, there is manifest error in this, to wit, that by the record aforesaid it appears that the judgment aforesaid, in the plea aforesaid given, was given for the said mayor and city council of Baltimore and others, against the said John Doe, lessee as aforesaid, when by the law of the land that judgment ought to have been given for the said John Doe, lessee as aforesaid, against the said mayor and city council of Baltimore and others; therefore in that there is manifest error, and he prays that the judgment aforesaid for that error and others, being in the record of proceedings aforesaid, may be reversed, annulled, and held entirely as void, and that he, the said John Doe, lessee as aforesaid, may be restored to all things which he hath lost by occasion of the said judgment, and that the said mayor and city council of Baltimore and others may rejoin to the errors aforesaid, and so forth.

And thereupon it is ruled by the court of appeals here that
155 the said mayor and city council of Baltimore and others join in the errors by the said John Doe, lessee as aforesaid, above assigned in the record of proceedings aforesaid, or judgment by the court of appeals here will be rendered against them in default thereof. And the said mayor and city council of Baltimore and others, by their attorneys aforesaid, that a day may be given them to join in the errors by the said John Doe, lessee as aforesaid, above assigned in the record of proceedings aforesaid, until the first Monday in December next; and to them it is granted; the same day is also given to the said John Doe, lessee as aforesaid. At which said first Monday in December, being the 5th day of the said month, in the year of our Lord one thousand eight hundred and forty-two, which said day was given to the said mayor and city council of Baltimore and others to join in the errors by the said John Doe, lessee as aforesaid, above assigned, come again into the court of appeals here the parties aforesaid, by their attorneys aforesaid, and the said mayor and city council of Baltimore and others, by their attorneys aforesaid, say there is no error in the record of proceedings aforesaid, nor in the giving of the judgment aforesaid, and they pray that the court of appeals here will proceed to the examination as well of the record of proceedings aforesaid, as of the matters aforesaid by the said
156 John Doe, lessee as aforesaid above, for error assigned, and that the said judgment may be in all things affirmed, and so forth.

Further process of and upon the premises between the parties aforesaid is, by virtue of an act of assembly in such case made and provided, further continued before the court of appeals here, until the second Monday in June next. The same day is given to the said

parties there and then, to hear the judgment of the court of appeals here, of and upon the said premises, and so forth.

And now at this day, to wit, the said second Monday of June, being the twelfth day of the same month, in the year of our Lord one thousand eight hundred and forty-three, come again into the court of appeals here the parties aforesaid, by their attorneys aforesaid. Whereupon, as well the record of proceedings aforesaid, and the judgment given in form aforesaid, as the matters aforesaid by the said John Doe, lessee as aforesaid above, for error assigned, being seen and by the court of appeals here fully understood, and mature deliberation thereupon had, for that it appears to the court of appeals here that there is no error in the record of proceedings aforesaid, nor in the giving of the judgment aforesaid: Therefore, it is considered by the court of appeals here that the judgment given in form aforesaid be in all things affirmed and stand in full force and effect, the said causes for error above assigned and alleged in any wise notwithstanding. And
157 it is further considered by the court of appeals here that the said mayor and city council of Baltimore and others have execution against the said John Doe, lessee as aforesaid, as well for the costs and charges aforesaid adjudged unto them in the said county court of Baltimore, as also the sum of one hundred dollars and four cents adjudged unto the said mayor and city council of Baltimore and others, by the court of appeals here, on their assent, for their costs and charges which they had sustained by occasion of the delay of the execution of the judgment aforesaid, by pretext of the prosecution of the said appeal by the said John Doe, lessee as aforesaid, for the correcting of errors of and upon the premises as aforesaid prosecuted, &c.

Test: RICHARD W. GILL,
Clerk of Court of Appeals of W. S. of Maryland.

MARYLAND, *sct:*

I, William A. Spencer, clerk of the court of appeals of Maryland, do hereby certify that the aforegoing is truly taken from the record of proceedings of the court of appeals of the Western Shore of the State of Maryland, and now one of the records of the court of appeals of Maryland. In testimony whereof, I have hereunto set my hand as clerk, and affixed the seal of the said court of appeals, this fifteenth day of June, anno Domini 1860.

[SEAL.] WM. A. SPENCER,
Clerk of the Court of Appeals of Md.

158 And afterwards, to wit, on the 28th day of June, in the year of our Lord 1860, the court passed the following order, to wit:

In the circuit court of the United States in and for the district of Maryland.

MARY BARNEY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE, and others.

Ordered by the court, this 28th day of June, 1860, that the complainant have leave to file an amended and supplemental bill and bill of revivor, as prayed for by her petitions filed 5th July, 1859, and 16th June, 1860, said bills to be filed on or before the first Monday of July next. All questions touching the jurisdiction of this court in the above cause, either on the original bill or on the bill which may be filed, this order and also all questions as to the complainant's right to relief in this proceeding are reserved until the final hearing.

WILLIAM F. GILES.

And afterwards, to wit, on the 30th day of June, in the year of our Lord 1860, the said Mary Barney, by her solicitors aforesaid, filed in court here the following amended and supplemental bill and bill of revivor, to wit:

To the honorable the judges of the circuit court of the United States, for the district of Maryland, in equity:

Mary Barney, the complainant, in her bill in this court
159 against The Mayor and City Council of Baltimore and others, brings this her bill, amended and supplemental, and of revivor, against said The Mayor and City Council of Baltimore and others, against whom the said complainant herein prays subpœna.

And thereupon, your oratrix avers all the facts (save only so far as this bill varies the same) set forth in her said original bill, and prays, as in that bill is claimed, partition, specifically or by sale, of the real estate in that bill mentioned, and an account of rents and profits. And your oratrix says that in her said original bill she erroneously described Samuel Chase Ridgely, one of the defendants therein named, as being of the District of Columbia, when the fact, and so she now, in her amendment of the said bill, avers, the said Samuel was at the time of filing the said bill, and for a long time before, a citizen of the State of Maryland, and so thenceforth always was. And your oratrix further states that said Samuel Chase Ridgely has departed this life, leaving his last will and testament, by which (it being duly admitted to probate and proved) he has devised to William G. Ridgely, and Ann C. Ridgely, and Matilda L. Ridgely, and Emily C. Hollingsworth, all the interest and property of said Samuel
160 that was in him at the filing of your oratrix's said original bill in and of the said real estate; and to said William, and Ann, and Matilda, all the interest and property which were in said William, and Ann, and Matilda, at the time of the filing of said original bill, and which subsequently said William, and Ann, and Matilda conveyed and released to said Samuel Chase Ridgely.

And your oratrix states that said William, and Ann, and Matilda are residents of the District of Columbia, and that Emily C. Hollingsworth is a citizen of the State of Maryland, and is in said original bill made a defendant, *made a defendant*, by the name of Emily Hollingsworth, and there described as the wife of Horatio Hollingsworth, which Horatio, your oratrix here further states, has, since filing of said original bill, died.

And your oratrix states that Anne Chase, one of the children, as stated in said original bill, of Samuel Chase the elder, and who, by amended bill, was made a party defendant to this cause and answered therein, has, since said original and amended bills, and original bills, and said Anne's answer were filed, departed this life, devising her interest in the real estate in said bill mentioned to her nieces, Hester A. Ridout, (formerly Chase,) wife of Doctor Samuel Ridout, and Matilda Chase, and Francis Catharine Townley Chase, (otherwise called Catharine Townley Chase,) who are all citizens of Anne Arun-
161 del county, in the State of Maryland, and citizens of that State.

And your oratrix states that said William G. Ridgely is, by letters of administration issued to him by the orphans' court of the county of Washington, in the District of Columbia, the administrator (with the said will of the aforesaid Samuel Chase Ridgely annexed) of the personal estate of said Samuel Chase Ridgely; and that Richard I. Crabb, of Anne Arundel county aforesaid, is, under letters testamentary issued to him from the orphans' court of said county, the executor of the last will and testament (which has been duly proved) of said Anne Chase; and that Isaac Coale, already a defendant in this cause, as an heir of Eliza Coale, is the administrator of the personal estate of said Eliza Coale, and under letters of administration issued to him from the orphans' court of Harford county, in the State of Maryland.

And now, to the end that *that* the said original bill be deemed and taken as amended, in the matters for amendment thereof in this bill set forth, and that said original bill may stand revived in respect of and as to the persons who, on the deaths of parties defendant, herein alleged, have, as alleged in this bill, succeeded respectively to the real and the personal estate respectively of such decedents, and that they be parties defendants to this cause in respect of said
162 original bill, may it please the court to grant to your oratrix the writ of subpœna directed to said William G. Ridgely, (devisee and administrator as aforesaid,) and Anne C. Ridgely, and Matilda L. Ridgely, and Emily C. Hollingsworth, and to said Samuel Ridout and his wife, Hester A. Ridout, and to said Matilda Chase, and Francis Catharine Townley Chase, and to said Isaac Coale, (heir and administrator aforesaid,) and to the other heirs of Eliza Coale, (all of Harford county aforesaid,) to wit, Eliza M. Jackson and Samuel Chase Coale, (already defendants to this cause,) and to Richard I. Crabb, executor as aforesaid of Anne Chase's will, and to the mayor and city council of Baltimore, commanding them to be in this court by a certain day, to answer the premises and therein to stand to and

abide by such order and decree as to this honorable court shall seem proper in respect of such amendment and revivor aforesaid, and for the relief prayed in the said original bill, specially and generally.

CHAS. F. MAYER,
G. L. DULANY,
Solicitor for Complainants.

Whereupon issued subpœna as prayed for in said amended and supplemental bill and bill of revivor, in form following, to wit.

And afterwards, to wit, on the 21st day of July, in the year of our Lord 1860, the following answers to the amended and supplemental bill and bill of revivor of Mary Barney was filed in court here, to wit:

163 To the honorable the judges of the circuit court of the United States for the district of Maryland, in equity:

The plea, demurrer, and answer of the mayor and city council of Baltimore, to the amended and supplemental bill and bill of revivor of Mary Barney, against them and others, in this court exhibited. These defendants, to so much of the said bill as avers that a certain Samuel Chase Ridgely, named in the original bill of said Mary Barney, was at the time of the filing of said original bill, and for a long time before, and thenceforth, a citizen of the State of Maryland, do plead that the said Samuel Chase Ridgely was not, at the time of filing of said original bill, nor for a long time before, nor thenceforth, a citizen of Maryland.

And as to so much of said bill as avers that William G. Ridgely, and Ann C. Ridgely, and Matilda L. Ridgely, released and conveyed to Samuel Chase Ridgely all their interest and property which were in them at the time of the filing of the said original bill, these defendants plead that the said conveyance was without consideration, colorable and fictitious, and executed with the intent to give jurisdiction to this court.

And as to so much of said bill as avers that said Samuel Chase Ridgely, by his last will and testament, devised to William G. Ridgely, and Emily C. Hollingsworth, and Ann C. Ridgely, and Matilda L. Ridgely the interest that was in him at the time of the filing of the original bill, and by said last will devised to said William, and

164 Ann, and Matilda, the interest so as alleged conveyed by them to them, and prays that said William G. Ridgely, and Ann C. Ridgely, and Matilda L. Ridgely, as inhabitants of the District of Columbia, be made parties to the said original bill, and to the said amended and supplemental and bill of revivor as devisees as aforesaid, these defendants do demur.

And these defendants, not waiving their said pleas and demurrer, but insisting thereon, for answer to so much of said bill as they are advised is necessary for them to answer, answer and say, that they insist on their former answer to the original bill of complaint (which bill of complaint is again averred in said amended bill) as answer to so much of said amended bill as avers the same. They admit that

said Samuel Chase Ridgely departed this life, leaving his last will and testament as in said bill alleged.

They also admit that William, and Ann, and Matilda Ridgely executed the conveyance in said bill alleged to said Samuel Chase Ridgely. They admit the death of Ann Chase, and that she devised her interest as stated in said bill.

These defendants having no knowledge of William G. Ridgely being the administrator of Samuel Chase Ridgely, or of Richard Crabb being the executor of the will of Ann Chase, or of Isaac Coale being the administrator of Eliza Coale, as stated in said bill, and neither admit nor deny the same. And they pray to be hence dis-
165 missed with their costs and charges in this behalf wrongfully sustained.

A. STERLING, JR.,
J. MEREDITH,
Solicitors for the Mayor and City Council of Baltimore.

Indorsed: "Admitted without oath.
"G. L. DULANEY, *Solicitor for Pl'ffs.*"

To the honorable the circuit court of the United States for the fourth circuit court, in and for the Maryland district, sitting in equity:

The joint and several answers of Eliza M. Jackson, widow, Isaac J. Coale, administrator of Eliza Coale and Samuel Chase Coale, only children and heirs-at-law of Mrs. Elizabeth Coale, deceased, and which said Isaac J. Coale is administrator of said Mrs. Elizabeth Coale, Hester A. Ridout, formerly Chase, and her husband, Dr. Samuel Ridout, Matilda Chase, and Frances Catharine Townley Chase, which Hester A., Matilda A., and Frances Catharine are the only devisees of said Anne Chase, deceased, and Richard I. Crabb, administrator of the said Ann Chase, Emily Hollingsworth, and William G. Ridgely, administrator with the will annexed of Samuel Chase Ridgely and John C. Proud, and also devisee therein named, and Anne C. Ridgely and Matilda L. Ridgely, to the original bill of Mary Barney, filed in this court, against the mayor and city council of Baltimore and
166 others, and the several amended and supplemental bills and bills of revivor therein filed. These defendants, saving to themselves the benefit of exceptions to the said , nevertheless, for answer thereto, answering, say that they admit the facts set forth in said original bill, and amended and supplemental bills, and bills of revivor, to the original bill, and pray that a decree may pass as prayed in said original bill.

WM. MEADE ADDISON,
Solicitor for all other Defendants than the Mayor and City Council of Baltimore.

The within answer is admitted without oath.
G. L. DULANY, *Sol'r for Comp't.*

And thereupon the said Mary Barney, by her solicitors aforesaid, filed in court here the following replication to the answer of the mayor and city council of Baltimore, to wit:

In the circuit court of the United States for the Maryland district, in equity:

MARY BARNEY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE and others.

The replication of the complainant to the answer of the mayor and city council of Baltimore, to the complainant's bill in this cause amended, suplemental, and of revivor.

167 This replicant, saving to herself all advantage of exception for the insufficiencies of said answer, for replication thereto says, that she will aver and prove her said bill to be true, certain, and sufficient to be answered to, and that said answer is uncertain, untrue, and insufficient to be replied to, without that, that any other matter or thing in the said answer contained material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All which matters and things this replicant is and will be ready to aver and prove as this honorable court shall direct; and she prays as in and by her said bill she has already prayed.

CHARLES F. MAYER,
G. L. DULANY,
Solicitors for Compl't.

And afterwards, to wit, on the 16th day of June, in the year of our Lord 1860, Henry R. Dulany, commissioner named in the commission, made return of the said commission to the court here, together with his proceedings under and in pursuance thereof, which are in the words and of the tenor following, to wit:

THE UNITED STATES OF AMERICA, *District of Maryland, to wit:*

To Henry R. Dulany, of the city of Baltimore, esquire, greeting:

Be it known that you are appointed commissioner to examine evidences in a cause now depending in the circuit court of the
[SEAL.] United States for the fourth circuit, in and for the Maryland district, (on the equity side thereof,) between Mary Barney, complainant, and the mayor and city council of Baltimore, defen-
168 dants: therefore you are requested, having first taken the oath hereunto annexed, that at such time and place as to you shall seem convenient, you cause to come before you all such evidences as shall be named or produced to you by either the complainant or defendant, and that you examine them upon their corporal oaths, to be by you administered, upon the Holy Evangely of Almighty God, touching their knowledge or remembrance of anything that may relate to the cause aforesaid; and having reduced the depositions of the witness so taken by you into writing, you send the same, with this commission closed, under your hand seal to the said circuit court with all convenient speed. Witness the honorable R. B. Taney, chief justice of our Supreme court, the first Monday in December, in the year of our Lord one thousand eight hundred and fifty-eight.

Issued 22d March, 1859.

THO. SPICER, *Clerk Circuit Court.*

Commissioner's oath.

You shall, according to the best of your skill and knowledge, truly, faithfully, and without partiality to any or either of the parties, take the examinations and depositions of all and every the witness and witnesses produced and examined by virtue of the commission hereunto annexed, upon the interrogatories now or which may hereafter, before the said commission is closed, be produced to and left
168 with you by either party. So help you God.

Sworn before EDW'D J. PETERS, *J. P.*

It is agreed that a commission shall issue to Henry R. Dulany to depositions in the above cause.

G. L. DULANY, *for Compl't.*
J. MEREDITH,
Sol'r for the Mayor and City Council.

True copy: THO. SPICER.

Circuit court of the United States for the fourth circuit, in and for the Maryland district, on the equity side thereof.

MARY BARNEY AND OTHERS
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE.

At the execution of the annexed commission, issued out of the circuit court of the United States for the fourth circuit, in and for the Maryland district, sitting as a court of equity, and to me directed, empowering me to examine evidences in the above entitled case, I, Henry R. Dulany, the commissioner in the said commission named, having first duly taken the oath to the said commission annexed, met on the second day of April, in the year of our Lord one thousand eight hundred and fifty-nine, at the office of G. L. Dulany, in the city of Baltimore, State of Maryland, and assigned the said second day of April, at twelve in the forenoon, and the same place, as time and place for the examination of evidences under the said commisson; at which
170 last-mentioned time and place the commission met, pursuant to notice, and I proceeded, in the presence of the solicitors of the respective parties, to take the following depositions, that is to say:

Francis W. Alricks, a witness of law age, produced on behalf of the complainant, being by me first duly sworn on the Holy Evangely of Almighty God, makes oath, deposeth, and saith as follows, that is to say:

That he knew Miss Nancy Chase well; that she had died within the last five or six years. Witness is also well aquainted with her nieces. The eldest, named Hester Ann Chase, was married to Dr. Samuel Ridout about three years ago. The next was named Matilda Chase. Witness also knew the third by the name of Fannie Chase; she was the youngest. He cannot say whether the said nieces were born in Anne Arundel county or Baltimore; but it was either the one place or the other. They had, however, resided in Anne Arundel since the death of their father. Witness is almost certain that Dr.

Samuel Ridout was born in the aforesaid county. The Doctor's mother resided on the Severn river. Witness knows Samuel Chase Ridgely well; he did not know him at that period. He presumes that Ridgely was born at Waterloo, in Anne Arundel county, because his parents lived there. After the death of his father his mother came to the city of Baltimore, lived there a few years and then went to live in Georgetown, where she died. Witness does not know where
171 Major Ridgely was at the time of her death, nor his age. He was educated at West Point. William G. Ridgely lives in the District of Columbia, Georgetown. The sisters of Major Ridgely live in the same place. The sisters of Judge Ridgely and Matilda Ridgely are, 1st. William G. Ridgely, who is the eldest son; 2d. Major S. C. Ridgely; 3d. Miss Nancy Ridgely; 4th. Matilda Ridgely; 5th. Miss E. Ridgely, afterwards, Hollingsworth, all of whom are living at the present time in Georgetown, and have been living there for the last twenty-five years, with the exception of Mrs. Hollingsworth, who has moved there within the last twelve months. Miss Emily Ridgely intermarried with Hollingsworth about thirty years ago. Until about one year ago, they lived at Owing's Mills, in Baltimore county. Horatio Hollingsworth died about a year ago in Philadelphia. Witness thinks that Hollingsworth married Emily Ridgely before her mother went to live in Georgetown.

Owen Boulden, a witness of lawful age, produced on behalf of the complainant, being by me first duly sworn on the Holy Evangely of Almighty God, makes oath, deposeth, and saith as follows, that is to say, he answers and says to complainant's interrogatory number

1. Do you know the parties to this suit? and how long have you known them, or either of them?

172 That he knows some of them. He is acquainted with Mrs. Barney.

To complainant's interrogatory number

2. What is your age, residence, and occupation?

That he is fifty-three years of age; lives in the city of Baltimore, and is a surveyor by occupation.

To complainant's interrogatory number

3. Look at complainant's Exhibit, plat B; are you acquainted with the position of the land, water, streets, docks, and wharves, which it professes to delineate? If so, state whether, to the best of your judgment, they are correctly described upon said plat; and if any street is omitted, state where it is located upon said ground.

That he is acquainted with the position of the land, water, streets, docks and wharves, described in said plat; that he has surveyed a great deal of the property, and finds that the plat represents the general outlines of the ground as improved. The street upon the west side of Liffey street, or a space of seventy-five feet wide (as delineated on the plat) running to Union Dock, is not left open on the city plat. If Lee street was extended it would strike somewhere near Lancaster street (as delineated on this plat) upon the east side of Jones's Falls, and as marked in pencil on the exhibit by deponent.

To complainant's interrogatory number

4. Look at complainant's Exhibit A; can you, from your knowledge of the ground, state where the boundaries are that are
173 referred to in said deed? If so, state them in your answer to this interrogatory. From your knowledge of the ground, could you locate the deed without the plat? and is it from that knowledge that you pronounce the plat to be correct?

That the ground conveyed in the deed, complainant's Exhibit A, as it is delineated on Plat B, in red shaded lines, is correctly located. (Witness deposes thus, having previously examined the explanations accompanying the plat.) Independently of the plat witness knows the ground; is acquainted with it independently of any plat. From his knowledge of the objects referred to in the deed, without the aid of any plat, he could locate the land thereby conveyed. From that knowledge witness pronounces the plat to be correct.

To complainant's interrogatory number

5. Can you state, independently of any plat and from your knowledge of the ground, whether the land has been extended, and how far, into the water, and when the said filling up was completed?

That the land lying between the west side of Jones's Falls and Union Dock, and between Pratt street and the basin, has been filled up and extended into the water above high-water mark. Liffey street is filled up, graded, and paved. Concord street is also paved. The tongue of land known as the Block is situated between the east side of Liffey street and the outlet to Jones's Falls at the drawbridge,
174 and is also filled up above high-water mark and improved. The major part of the property, according to witness's recollection, was filled up about the year 1826 or 1827. Block was filled up and completed pretty much as it now is about the year 1831. The whole block, as an improvement, was completed previous to the year 1848.

To complainant's interrogatory number

6. Will you state what are the dimensions of the City Block? How many feet does it bind on Liffey street?

That the block running eastward from Liffey street is about three hundred and fifty to four hundred feet wide. Witness, however, has made actual admeasurement (2) which he will exhibit, and which it was agreed among the counsel should be taken as part of his answer.

(2) The admeasurement thus referred to was returned to the commissioner on the 26th of October, 1859, in the form of a plat, to this commission annexed, marked Exhibit O. B. No. 1, together with a paper, marked Exhibit O. B. No. 2, under the signature of the said Bouldin, acknowledging the said plat to be a correct admeasurement of the block referred to in compl't's 6th interrogatory.

To complainant's interrogatory number

7. Does not the block prevent the approach of any ships or vessels to the east side of Liffey street, upon which it bounds?

That the block of course obstructs the approach of any vessels to the east side of Liffey street.

To complainant's interrogatory number

175 8. From your knowledge of the ground, does the filling and

extension of the ground upon Liffey street and the neighboring street into the water, correspond with the permission contained in complainant's Exhibit D & E, and the permission asked in complainant's Exhibit C?

That from witness's knowledge of the ground, it is filled up to the grades as regularly authorized, and in accordance with the permissions referred to in the above interrogatory.

The commission was here closed.

In testimony whereof, I have hereunto subscribed my name and affixed my seal on this sixteenth day of June, 1860.

[SEAL.] HENRY ROZIER DULANY,
Commissioner.

The Exhibit O. B. No. 2, referred to in the foregoing return, is as follows, to wit:

The further answer of Owen Boulden to complainant's 6th interrogatory: Deponent states that he has actually measured the block referred to in the above interrogatory and made the plat thereof hereto annexed, marked O. B. No. 1, and that the same is a correct delineation of the said block and of its shape and extent.

OWEN BOULDIN.

(Exhibit O. B. No. 1 missing.)

176 And afterwards, to wit, on the 27th day of October, in the year of our Lord 1860, the following agreement was filed in court here, to wit:

(Agreement missing.)

And afterwards, to wit, on the 14th day of November, in the year of our Lord 1861, the said Mary Barney, by her solicitors aforesaid, filed in court here the following bill of revivor, to wit:

Circuit court of the United States for the Maryland district.

MARY BARNEY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE and others.

To the honorable Roger B. Taney and William F. Giles, judges of said court, sitting in equity:

The bill of revivor of said complainant respectfully shows to this honorable court that William G. Ridgely, one of the defendants *one of the defendants* to said cause has departed this life intestate, and leaving his widow, Sophia, and his only children and heirs-at-law, Sophia M. Ridgely, Anne Key Ridgely, and William G. Ridgely, junior; that said Sophia Ridgely, his widow, has been duly appointed his administratrix by the orphans' court of Washington county, in the District of Columbia, in the United States of America; that

177 said William G. Ridgely, deceased, was, in his lifetime, duly appointed by said orphans' court of the District of Columbia, administrator of Col. Samuel Chase Ridgely, one of the defendants in the above case, in his lifetime, with the will annexed;

that since the death of the said William G. Ridgely, John C. Proud, of the city of Baltimore, and a citizen of Maryland, has been appointed by the orphans' court for Baltimore city, administrator d. b. n. with the will annexed of said Col. Samuel Chase Ridgely. Wherefore, your complainant's pray that said suit may be revived against the said parties, and that they may answer the original and amended bills in this cause, and that subpœna may issue against the said Sophia Ridgely, Sophia M. Ridgely, Anne Key Ridgely, William G. Ridgely, and John C. Proud. And they will, as in duty, ever pray, &c.

G. L. DULANY,
CHAS. F. MAYER,
Sol's for Complainant.

And on the said 14th day of November, in the year 1861 aforesaid, the following answer was filed in court here, to wit:

To the honorable the circuit court of the United States in and for the Maryland district:

The joint and several answers of Eliza M. Jackson, widow, Isaac I. Coale, administratrix of Mrs. Eliza Coale, deceased, Samuel
178 C. Coale, only children and heirs-at-law of Mrs. Eliza Coale, deceased, Hester A. Ridout, formerly Chase, and her husband, Doctor Samuel Ridout, Matilda Chase and Frances Townley Chase, who are the only devisees of the estate, real and personal, of the said Anne Chase, deceased, and Richard I. Crabb, executor of the will of said Anne Chase; Emily Hollingsworth, Anne C. Ridgely, Matilda L. Ridgely, Sophia Ridgely, also administratrix of William G. Ridgely, deceased, Sophia M. Ridgely, Anne Key Ridgely, and William G. Ridgely, junior, which Sophia M., Anne, and William are the only children and heirs-at-law of the said late William G. Ridgely; and John C. Proud, administrator d. b. n. of Col. Samuel C. Ridgely, deceased, to the original and amended bills and to the several amended bills and bills of revivor, and amended and supplemental bill and bill of revivor filed in this honorable court against them, or those whom they represent.

These defendants, saving to themselves the benefit of exception to the many errors and misstatement in said several bills, for answer thereto, answering, say that they admit the facts set forth in said several bills as therein charged, and consent that a decree or decrees may pass as therein prayed.

WM. MEADE ADDISON.
Solicitor for all Defendants except the Mayor and City Council of Baltimore.

179 The above answer accepted without oath.

G. L. DULANY,
Solicitor for Complainants.

And afterwards, to wit, on the 26th day of February, in the year of our Lord 1863, the following admissions were filed in court here, to wit:

Circuit court of the United States for the Maryland district.

MARY BARNEY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE and others.

It is admitted in this case that the Honorable Judge Samuel Chase, of the city of Baltimore, departed this life on the 19th day of June, A. D. 1811, and that he left at his death, as his only children and heirs-at-law, Thomas Chase, Samuel Chase, Matilda Ridgely, wife of Henry Ridgely, which Henry Ridgely died about the same time as the said Judge Chase, Nancy or Anne Chase, Eliza Chase, who afterwards, in January, 1818, intermarried with a certain Skipwith H. Coal, who departed this life in the fall of the year 1835, and his widow, the said Eliza Coal, died in March, 1853; that the said Judge Chase also left at his death his daughter, Mary Barney, who was, previous to his death, married to William B. Barney; that said William B. Barney departed this life upon the 18th November, 1838; that said Matilda Ridgely, in the early
180 part of the year 1835, died, leaving as her only children and heirs-at-law William G. Ridgely, Hester Ridgely, Emily, who intermarried with Horatio Hollingsworth, which Horatio hath departed this life since the filing of the bill in this cause, Nancy Ridgely, Matilda Ridgely and Samuel Chase Ridgely.

It is admitted that since the filing of the bill in this case the said Nancy Chase has departed this life, first having duly made her last will and testament, by which she devised all her estate, real and personal to her nieces, Hester A. Chase, Matilda Chase, (who has since intermarried with Dr. Samuel Ridout, of Anne Arundel county,) and Catharine Townly Chase, residents of said county, and citizens of the State of Maryland.

It is admitted that Mrs. Eliza Coale at her death as aforesaid, in the year 1853, left as her only children and heirs-at-law Mrs. Eliza M. Jackson, a widow, Samuel Coale and Isaac Coale, citizens of the State of Maryland.

It is admitted that Major Samuel Chase Ridgely departed this life in the summer of 1859, having first made his last will, a copy whereof is herewith filed, marked A, which is admitted as a part of this statement.

That the said William G. Ridgely, Anne C. Ridgely and Matilda L. Ridgely executed a deed of their property in Maryland to John G. Proud, junior, bearing date the 5th day of October, 1859,
181 herewith filed as part of these admissions, marked Exhibit B.

It is admitted that no consideration was paid by Proud for the grant to him in said deed, and that the same was executed to remove a difficulty in the way of the exercise of the jurisdiction of this court.

It is further admitted that Richard Crabb is executor with the will annexed of the within named Anne Chase, deceased, and that Isaac Coale is administrator of Eliza Coale within mentioned.

It is further admitted in this case that the deed of the 8th June, 1858, to Samuel C. Ridgely, from William G. Ridgely and others,

was made without valuable consideration, and to enable the court to dispose of the case as if the grantors in the deed had no interest in the matter in question in the cause; it being further understood that on request of the grantors the property conveyed by the deed should be passed to the grantors.

It is also agreed that either party may offer in evidence the record in the ejection suit of Barney and others *vs.* The Mayor and City Council of Baltimore, for any purpose and to any effect for which it would have been evidence if filed before the commissioner and returned with the commission in this cause. It is also agreed that the plats, deeds and permissions in said case may be read in evidence from said record by either party in this cause, and may be substituted in the place of any papers referred to in the bill which cannot be found, and especially the plat referred to in the said bill as Exhibit
182 B, as also the deposition and testimony of Lewis Hart, and all ordinances and acts of assembly from the printed books thereof.

CHAS. F. MAYER,
G. L. DULANY, *Sol'rs for Complainant.*
A. STIRLING, JR.,
Solicitor for Mayor and City Council.
WM. MEADE ADDISON,
Sol'r for the other Defendants, except the Mayor and City Council.

It is further admitted that Liffey street has been used as a street by the public since the improvement of the City Block was completed in 1826. It is also admitted that the agreement signed by the property holders for the improvement of the cove on the east side of Jones's Falls, may be read in evidence in this cause from a printed copy thereof in a memorial addressed to the mayor and city council in 185–, or from any other copy of said agreement or assent. It is also admitted that the mayor and city council of Baltimore did cause Jones's Falls to be deepened on the east side thereof adjoining Liffey street, and also did wharf and fill up said street, so far as the same had not been filled up and logged by Judge Chase in his lifetime, as stated in the deposition and evidence of Lewis Hart.

It is also admitted that the work done as aforesaid in filling
183 said street and block and deepening Jones's Falls was all accomplished by the city of Baltimore subsequent to the year 1818.

G. L. DELANY,
A. STIRLING, JR.,
W. M. ADDISON,
For Defendants other than the Mayor and City Council of Baltimore.

And on the said 26th day of February, in the year of our Lord 1863, aforesaid, the following agreement submitting the cause for final decree was filed in court here, to wit:

C. C. U. S.

BARNEY
vs.
THE MAYOR AND CITY COUNCIL AND OTHERS.

It is agreed that this cause be set down for final hearing.

G. L. DULANY, *for Complainant.*
J. MEREDITH, *for Mayor and City Council.*
W. M. ADDISON, *for all other Defendants.*

Feb. 26, 1863.

And afterwards, to wit. on the 3d day of March, in the year of our Lord 1863, the following lease was filed in court here, to wit:

184 *Samuel Chase.—Lease to James Clarke.*

MARYLAND, *sct., Baltimore county, to wit:*

This indenture, made this twelfth day of November, in the year of our Lord one thousand seven hundred and ninety-eight, between Samuel Chase, of Baltimore county, gentleman, of the one part, and James Clarke, of the city of Baltimore, merchant, of the other part, witnesseth that the said Samuel Chase, for and in consideration of the payment of the rent hereinafter reserved and performance of the covenants hereinafter mentioned on the part of the said James Clarke, his executors, administrators, and assigns, to be paid and performed, hath demised, granted, and to farm letten, and by these presents, doth demise, grant, lease, and to farm let, unto the said James Clarke all the following four lots or parcels of ground in the city of Baltimore, to wit: Beginning on the east line of Concord street, at the distance of ten feet from Water street, and thence with Concord street, for breadth, sixty feet, and thence with a straight line for depth, eighty-nine feet, to a public wharf on Jones Falls, (of forty feet width,) and thence with the west side of the said wharf for breadth, sixty feet, and thence with a straight line, for depth, eighty-nine feet, to the beginning, which said street and wharf are described on a plat made by the said Samuel Chase, and which said four lots or parcels of ground,
185 are also described on the said plat, and distinguished thereon by the numbers 1, 2, 19, and 20, together with all privileges and advantages to the said four lots or parcels of ground belonging or in anywise appertaining. To have and to hold the said four lots or parcels of ground above described, with the appurtenances, unto the said James Clarke, his executors, administrators, and assigns, from the day next before the day of the date of these presents, for and during and until the full end and term of ninety-nine years, from thence next ensuing, fully to be completed and ended, yielding and paying therefor, yearly and every year during the said term, to the said Samuel Chase, his heirs, and assigns, the yearly rent of two hundred and sixty dollars, money of the United States, clear of all deductions, discounts, or defalcations for taxes, assessments, or other public dues, impositions, burthens, or charges of any kind or nature whatsoever, civil or military, which may at any time hereafter be laid, imposed,

assessed, or levied on the said four lots or parcels of ground and premises above described, or any part thereof, or on any building or buildings erected thereon, or on the ground rent reserved as aforesaid, or on any interest of him, the said Samuel Chase, his heirs, or assigns, in and to the said ground rent, either by act of Congress or act of the legislature of this State, or by any town, city, or corporation act, or in any other manner whatsoever, in two half-yearly equal payments during the continuance of this present demise. Provided always, and these presents are upon this condition, nevertheless, and it is the true intent and meaning of these presents and of the parties thereto, that if it shall appear that the said yearly rent or any part thereof without any deduction, discount, or defalcation for taxes, assessments, or other public dues, impositions, burthens, or charges of any kind or nature whatsoever, civil or military, shall be in arrear and unpaid, in all or in part, by the space of thirty days next after any of the days of payment thereof before mentioned, although no demand should be lawfully made, that then it shall and may be lawful to and for the said Samuel Chase, his heirs, and assigns, and any of them, at his or their option, or make distress therefor, or into the demised premises or any part thereof, in the name of the whole to re-enter, and the same to have again, repossess, occupy, and enjoy as in his or their former estate and right, and the said James Clarke, his execntors, administrators, and assigns, and all other the occupiers and possessors of the said demised premises or any part thereof, thereout, and from thence utterly to expel, put out, and amove, until all such arrearages of rent, with legal interest therefor, and all and every cost, charge, and expence incurred by the said Samuel Chase, his heirs, or assigns, by reason of the non-payment of the said rents shall be fully satisfied and paid. And provided also, and these presents are upon this further condition nevertheless, and it is the true intent and meaning of these presents and of the parties thereto, that if the said yearly rent without any deduction, discount, or defalcation for taxes, assessment, or other public dues, impositions or burthens or charges of any kind or nature whatsoever, civil or military, shall be in arrears and unpaid by the space of one year after any of the days of payment, thereof before mentioned, although no demand thereof should be lawfully made, that then it shall and may be lawful to and for the said Samuel Chase, his heirs and assigns and any of them, into the said demised premises or any part thereof in the name of the whole to re-enter and the same to have again, repossess, occupy, and enjoy, as in his or their former estate and right, as if this lease had never been made, and the said James Clarke, his executors, administrators, and assigns, and all other the occupiers and possessors of the said demised premises or any part thereof, thereout and from thence utterly to expel, put out, and amove; and on such default in payment of the said rent this deed of indenture and every clause, matter, and thing therein contained shall from thence forth be utterly void and of none effect in law and equity to every intent and purpose whatsoever; and the estate and term hereby created shall absolutely and forever cease, determine, and be void,

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both in law and equity, to every intent and purpose whatsoever, anything herein contained to the contrary hereof in anywise notwithstanding. And the said James Clarke for himself, his executors, administrators, and assigns, and for every of them, doth hereby covenant and grant to and with the said Samuel Chase, his
188 heirs and assigns, in manner and form following, that is to say: that he, the said James Clarke, his executors, administrators, and assigns, or some of them, shall and will within the term of two years from the date hereof erect and build good and substantial improvements of brick or stone on the said demised premises, of the full yearly value of the ground rent reserved as aforesaid. And if the said improvements shall not be erected and built on the said demised premises within the said term of two years, that then the said James Clarke, his executors, administrators, or assigns, or some of them, shall and will well and truly pay or cause to be paid to the said Samuel Chase, his heirs and assigns, the annual sum of two hundred dollars, money of the United States, exclusive of and in addition to the rent reserved as aforesaid, and the said additional sum shall be regularly and duly paid every year until the said improvements shall be erected and built: and further, that he, the said James Clarke, his executors, administrators, and assigns, and any of them, shall not at any time hereafter erect or build, or permit or consent to be erected or built, on the said four lots or parcels of ground or on any part thereof, any other than brick or stone buildings. And also that he, the said James Clarke, his executors, administrators, or assigns, or some of them, shall and will from time to time, and at all times hereafter, during
189 the term hereby granted, well and truly pay or cause to be paid to the said Samuel Chase, his heirs or assigns, the rent or sum of two hundred and sixty dollars, money of the United States aforesaid, without any discount or defalcation for taxes, assessments, or other public dues, impositions, burthens, or charges of any kind or nature whatsoever, civil or military, at the days and times above limited for the payment of the same, and in such manner and form as the same is hereinbefore reserved and made payable, without fraud or delay, according to the purport, true intent, and meaning of these presents. And further, that the said James Clarke, his executors, administrators, or assigns, or some of them, shall and will at all times hereafter during the said term hereby granted, bear, pay, and discharge all taxes, assessments and other public dues, impositions, burthens, and charges of every kind or nature whatsoever, civil or military, which shall or may at any time hereafter be laid, assessed, imposed, or levied on the said four lots or parcels of ground and premises above demised, or any part thereof, or on any building or buildings erected thereon, or on the ground reserved as aforesaid, or on any interest of him, the said Samuel Chase, his heirs or assigns, in or to the said ground rent, either by act of Congress or act of the legislature of this State, or by any town, city, or corporation act, or in any other manner whatsoever; and thereof and from every part
190 thereof shall and will forever acquit, exonerate, and discharge as well the said Samuel Chase, his heirs and assigns, as also the said hereby demised premises. And lastly, that he, the said James

Clarke, his executors, administrators, and assigns, will not deduct or discount any tax, assessment, or other public dues, impositions, burthens, or charges of any kind or nature whatsoever, civil or military, paid by him or them or any of them for or on account of the said four lots or parcels of ground, or any part thereof, or for or on account of any building or buildings erected thereon, or for or on account of the ground rent reserved as aforesaid, or for or on account of any interest of him, the said Samuel Chase, his heirs or assigns, in or to the said ground rent, although the said James Clarke, his executors, administrators, or assigns, may by law be authorized so to do, it being the true intent and meaning of these presents and of the parties thereto that he, the said Samuel Chase, his heirs and assigns, shall have and receive the said whole yearly rent of two hundred and sixty-two dollars, money of the United States, free and clear of and from all manner of taxes, assessments, or other public dues, impositions, burthens, or charges of any kind or nature whatsoever, civil or military, and without any deduction, discount, or defalcation therefor. And the said Samuel Chase for himself, his heirs and assigns, and for every of them, doth hereby covenant and grant to and with the said James Clarke, his executors, administrators, and
191 assigns, that he and they respectively on the payment of the rent and performance of the covenants hereinbefore mentioned and reserved, on his and their parts respectively to be paid and performed, shall and may peaceably and quietly have, hold, use, occupy, possess, and enjoy the above demised premises, with their appurtenances, for and during the aforesaid term of ninety-nine years without any let, trouble, eviction, expulsion, or interruption of him, the said Samuel Chase, his heirs or assigns, or of any other person claiming under him or them; and also that he, said Samuel Chase, his heirs and assigns, at any time or times hereafter during the continuance of this present demise, on the request and at the cost and charge of the said James Clarke, his executors, administrators, or assigns, and on his or their payment or tendering in payment to him, the said Samuel Chase, his heirs or assigns, the sum of two hundred and sixty dollars, money of the United States, shall and will make and execute, or cause to be made and executed, a good and sufficient new lease of the above demised premises for other ninety-nine years, to commence and take effect from and at the end of the term for which the same is above demised, subject to the same clear nett annual rent, payable as aforesaid, of two hundred and sixty dollars, money of the United States, without any deduction as aforesaid, and under the like covenants as are hereinbefore mentioned, so that the present demise may be from time to time renewable and renewed forever.

In witness whereof, the said Samuel Chase and the said
192 James Clarke have hereunto set their hands and affixed their seals the day and year first above written.

SAMUEL CHASE. [SEAL.]
JAMES CLARKE. [SEAL.]

Signed, sealed, and delivered in the presence of—the following words, to wit, "or," pa. 1, line 31, "this," pa. 2, line 1, "thereof," same pa., line 9, "rent," same pa., line 18, "or assigns," pa. 3, line 14,—being first interlined—

JOSEPH CROUT,
W. WINCHESTER.

BALTIMORE COUNTY, *to wit:*

On the twelfth day of November, in the year of our Lord one thousand seven hundred and ninety-eight, came before me, one of the associate judges of the Baltimore county court, the above-named Samuel Chase and James Clarke, parties to the within deed of indenture, and severally acknowledged the same to be their respective act and deed, according to the true intent and meaning thereof and the act of assembly in such case made and provided. And at the same time came before Hannah Kitty Chase, wife of the said Samuel Chase, and being by *us* examined privately and out of the hearing of her said husband, acknowledged that she released all her right and title of dower of, in, and to the said four lots or parcels of ground in the said deed mentioned and described, and that she made the said acknowledgment willingly and freely, and without in-
193 duced thereto by fear or threats of, or ill usage by, her said husband or fear of her displeasure.

WM. WINCHESTER.

Received to be recorded the 12th day of November, 1798. Same day recorded and examined per

WM. GIBSON, *Clk.*

In testimony that the aforegoing is truly copied from liber W G, No. 56, folio 459, &c., one of thel and records of Baltimore county, (which records are now in my keeping,) I hereto set my hand and affix the seal of the superior court of Baltimore city this 17th day of November, 1860.

[SEAL.] GEO. E. SANGSTON, *Clk.*

And afterwards, to wit, on the 14th day of March, in the year of our Lord 1863, the court passed the following decree, to wit:

In the circuit court of the United States in and for the 4th circuit and for the district of Maryland.—Special term, March, 1863.

MARY BARNEY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE and others.

This cause came on to be heard at this term, and was argued by counsel. And thereupon, upon consideration thereof, it was, this 14th of March, 1863, ordered, adjudged, and decreed that the bill of complaint filed in this cause be, and the same is hereby, dis-
194 missed with costs to the defendants.

WILLIAM F. GILES.

And afterwards, to wit, on the third day of October, the said Mary Barney, by Robert J. Brent, esquire, her attorney, filed in the circuit court here the following petition, to wit:

To the honorable William F. Giles, judge of the circuit court for the Maryland district:

The petition of Mary Barney respectfully represents that heretofore, on the fourteenth day of March, 1863, a decree was passed in a cause in equity in this court, wherein your petitioner is complainant, and the mayor and city council of Baltimore and others are defendants, dismissing the bill of complaint of the complainant. Therefore your petitioner now prays an appeal from said decree to the next term of the Supreme Court of the United States.

R. J. BRENT, *for Petitioner.*

Whereupon the court passed the following order, to wit:

Let the appeal be allowed and citation issue upon the appellant filing a bond in the penalty of three hundred dollars, to be approved by this court.

Oct. 3d, 1865. WILLIAM F. GILES.

195 Thereupon it is ordered by the court here that the record and proceedings aforesaid, with all things relating to the same, be transmitted to the said Supreme Court of the United States, to be held at the city of Washington on the first Monday in December next. And the same are transmitted accordingly.

Appeal bond.

In the circuit court of the United States for the Maryland district.

MARY BARNEY
vs.
MAYOR AND C. C. OF BAL'TO *et al.*

Know all men by these presents, that we, Robert M. Proud, of the city of Baltimore, in the State of Maryland, and Lewis Mayer, of the same place, are held and firmly bound unto the mayor and city council of Baltimore and the other defendants mentioned in this cause, or to their certain attorney, executors, administrators, or assigns, in the full and just sum of three hundred dollars, to which payment, well and truly to be made, we bind ourselves and every of us, our and every of our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals and dated this third day of October, in the year of Lord one thousand eight hundred and sixty-five.

Whereas by a decree of the circuit court of the United
196 States for the fourth circuit, in and for the Maryland district, passed in a cause therein on the 14th day of March, A. D. 1863, between Mary Barney, complainant, and the mayor and city council of Baltimore and others, defendants, the said court dismissed her said bill of complaint with costs; and whereas the said Mary Barney is about to appeal from the said decree to the Supreme Court of the United States:

Now, the condition of the above obligation is such, that if the said Mary Barney shall not cause a transcript of the record and proceedings of the said cause to be transmitted to the said Supreme Court of the United States within the time required by law, and prosecute the same with effect, and pay unto the mayor and city council of Baltimore and the other defendants mentioned in this cause, their certain attorney, executors, administrators, or assigns, in case the said decree shall be affirmed, as well the costs and charges decreed by the said circuit court to be paid by the said Mary Barney, as also all costs and charges that shall be awarded by the Supreme Court of the United States, then this bond to be and remain in full force and virtue in law.

ROB'T M. PROUD. [SEAL.]
LEWIS MAYER. [SEAL.]

Signed, sealed, and delivered in presence of—
J. G. PROUD, JR.

Endorsed: Bond approved Oct. 3d, 1865.
WILLIAM F. GILES.

197 THE UNITED STATES OF AMERICA:

To the mayor and city council of Baltimore, William G. Ridgely, Anne C. Ridgely, Matilda L. Ridgely, Emily C. Hollingsworth, Samuel Ridout and Hester A., his wife, Matilda Chase, Francis C. T. Chase, Isaac Coale, Eliza M. Jackson, Samuel C. Coale, and Richard I. Crabb, executor of Ann Chase, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the first Monday of December next, pursuant to an appeal entered in the circuit court of United States for the fourth circuit, in and for the Maryland district, in a cause wherein Mary Barney is appellant, and you are appellees, to show , if any there be, why the decree passed in said cause should not be reversed, and why speedy justice should not be done to the parties in that behalf.

Witness my hand and seal this third day of October, in the year of our Lord one thousand eight hundred and sixty-five.

[SEAL.] WILLIAM F. GILES.

I acknowledge service of the above citation.

WM. PRICE, *City Counsellor.*
WM. MEADE ADDISON,
for Defendants for whom I appear as attorney.

199 In testimony that the aforegoing is a true copy taken and made from the record and proceedings of the circuit court aforesaid, I hereunto subscribe my name and affix the seal of the said circuit court this eleventh day of October, in the year of our Lord one thousand eight hundred and sixty-five.

[SEAL.] JAS. W. CHEW, *Clerk Cir't C't.*

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IN THE SUPREME COURT OF THE UNITED STATES.

AN APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE FOURTH CIRCUIT AND DISTRICT OF MARYLAND.

MARY BARNEY, APPELLANT,

vs.

THE MAYOR AND CITY COUNCIL OF BALTIMORE AND OTHERS, APPELLEES.

STATEMENT AND POINTS

On the part of the Mayor and City Council of Baltimore, one of the Appellees.

STATEMENT AND POINTS.

The complainant, *as a citizen of Delaware*, exhibited her Bill against the Mayor and City Council of Baltimore, and against Elizabeth Coale, Horatio Hollingsworth and wife, as citizens of Maryland, and against William G. Ridgely, Ann C. Ridgely and Samuel Chase Ridgely, *as citizens of the District of Columbia*, praying, *as against the Mayor and City Council of Baltimore*, an account of "the rents, profits and avails" of certain property therein mentioned, in which property, the Bill claims, the complainant, and the other defendants, (except the Mayor and City Council,) as heirs at law of Samuel Chase, (who died in 1811,) are interested, as tenants in common with said Mayor and City Council; it being conceded in the Bill that said Mayor and City Council had validly acquired the interests of Samuel Chase junior and Thomas Chase, two of the heirs at law of said Samuel Chase.

The Bill, besides praying an account, as aforesaid, prayed a partition of said property, by a sale thereof and distribution of the proceeds of sale; and also prayed, in case it should be found that complainant had no interest in a portion of the property claimed, called the "City Block," that the same might be declared *a nuisance*, and be abated and removed, as such.

During the pendency of the cause, two of the said defendants, described in the Bill, as citizens of the District of Columbia, namely, William G. Ridgely and Ann C. Ridgely, (and Matilda L. Ridgely, not a party to the cause) by deed,

dated June 8th, 1858, conveyed their alleged interest in said property to their co-defendant, Samuel Chase Ridgely; who, it was claimed, was then a citizen of Maryland, and had been such from a period prior to the filing of said Bill. As to this deed, an admission will be found, at page 30, and also at page 83 of the record,—that it was made "without valuable consideration, and to enable the court to dispose of the case, as if the grantors in the deed had no interest in the matter in question in the cause; it being further understood that, on the request of the grantors, the property, conveyed by the deed, should be passed to the grantors." Three days after the date of said deed, said Samuel Chase Ridgely made his testament and last will, whereby he devised to the said grantors, in said deed, the same interest, purported to be conveyed by said deed; and he devised his original alleged interest in said property, to William G. Ridgely, Matilda L. Ridgely, Ann Chase Ridgely and Emily C. Hollingsworth, to be equally divided between them. Shortly after making his will, said Samuel Chase Ridgely departed this life, and his will was duly proved. Afterwards, by deed dated 5th October, 1859, said William G. Ridgely, Ann Chase Ridgely and Matilda L. Ridgely, describing themselves in the deed, as *of the District of Columbia*, conveyed their interest, in said property, to John G. Proud, junior; and it is admitted, in the record, page 30 and page 83, that "no consideration was paid by said Proud, for the grant to him in said deed," and that the same was executed "to remove a difficulty in the way of the exercise of the jurisdiction of the court."

The other appellees, having a like interest as that asserted by the complainant, answered the Bill, admitting the averments thereof.

The Mayor and City Council, however, denied all the material averments of the Bill, as to the alleged title of Samuel Chase, the father of the complainant; and claimed title in the City of Baltimore, as having been acquired in the manner

fully set forth in said answer, (and which will hereinafter be stated,) and relied on a record of a judgment of the Court of Appeals of Maryland, rendered in June 1843, in an action of Ejectment, in which the heirs of Samuel Chase were lessors of the plaintiff, and the Mayor and City Council of Baltimore and others were defendant, in which the question of the alleged title of said Samuel Chase, the father of complainant, was expressly considered; and the decision was against such alleged title.

No testimony was taken, except to prove heirship, and the same state of case is presented, in this record, by agreement of counsel in the court below, as made up the case before the Court of Appeals.

Upon the final hearing of the case, the court below passed a decree, dismissing the Bill. From that decree, this appeal has been taken.

On behalf of the Mayor and City Council of Baltimore, it will, respectfully, be insisted :

1. That this Honorable Court has no jurisdiction to re-examine the decree of the Circuit Court.

The appellant, by her Bill, prayed an account of "large amounts of money" alleged to have been received by the city for wharfage from vessels, and for the use of the ground on Liffey street, now called Falls avenue; and the answer admits, that the city received compensation "from many persons," for the use of the wharves on Liffey street, and of the ground known as the City Block. But there is no averment in pleading, nor any proof or admission, as to the amount received. The complainant, also, prayed for a partition of the bed of Liffey street, and of the City Block, in both of which she claimed to have an interest of one-sixth; but there is no averment, proof or admission, as to the value of the bed of

said street, or of the City Block. The appeal, therefore, should be dismissed.

Act of 1789, chap. 20, sec. 22.
Barry vs. Mercein, 5 How. 103.
Brown vs. Shannon, 20 How. 55.

1 Wash 84

2. The circuit court had no jurisdiction to pass such a decree, as was sought by the bill.

The parties, who resided in the District of Columbia, were material and indispensable parties to the suit; whether considered as a bill for an account, or as a bill for petition. No complete decree could be made in their absence.

Russell vs. Clarke's Ex's, 7 Cranch, 98.
Shields vs. Barrow, 17 How. 139.
Smith vs. Kernocher, 7 How. 216.
Calvert on Parties, 117, 119, 124.
Story's Eq. Pl., sec. 159, 218.
1 Story's Eq. Jur., sec. 655.

3. The Bill is multifarous. It prays for an account of monies received by the city, as an alleged tenant in common with the complainant, in which aspect of the Bill questions would or might arise, wholly irrelevant to a proceeding for the partition of land; and *e converso*. And when the Bill is regarded as being, also, an application for a decree, directing the abatement of an alleged nuisance,it would seem to furnish good ground for this objection. There is no other connection between these claims than that they all involve the question of complainants' *title*. But this will not justify the conjunction, in one bill, of several independent matters. Here are conjoined a claim for money, and a claim for land; and the decree, if passed, in favor of the complainant, would embrace two subject matters; and would create confusion and perplexity.

Story's Eq. Pl., sec. 271, &c.,

4. The question as to the alleged title of Samuel Chase, under whom the appellant claims, has been expressly decided by the Court of Appeals of Maryland, in a case properly before said court, and in which the now appellant was one of the lessors of the plaintiff.

The present record contains a transcript of a record, extending from page 34 to page 72, in which the now appellant and the other heirs of Samuel Chase were lessors of the plaintiff, and the Mayor and City Council of Baltimore was defendant. We need not rely on that judgment as a technical *estoppel*; but the record discloses that the precise questions of law, which arise in this case, as to title, arose in that case; and were decided by the Court of Appeals. By an agreement (Record 84) the plots, deeds, permissions and testimony, in that case, are introduced into this case; and, also, all ordinances and acts of Assembly relied on, in that case. No testimony was offered in this case, beyond proof of heirship; and the questions, as to title, depends solely on the Acts of Assembly, ordinances, permissions and other documents, in connexion with the undisputed facts, stated in the testimony of Mr. Hart, the witness in for the lessors of the plaintiff, in said ejectment case. We invoke the decision of the highest court in Maryland, as a satisfactory exposition of the law of Maryland, as to title, upon the precise state of case, upon which the Appellant relies in this case, to make out a title.

The Appellant in this case, claims title to the "City Block," and, also, to the bed of "Liffey Street." In the trial of the ejectment, below, the defendant asked an instruction to the jury (Record, page 68, and 3d prayer) that the plaintiff had not shewn, that said Samuel Chase, the elder, died seized of the City Block; *and that the plaintiff was not entitled to recover said City Block, or any part thereof.* The prayer, in effect, was a demurrer to the evidence. The instruction was granted, in terms, as prayed.

The 7th prayer also related, practically, to the City Block, as will be seen on reference to the plots; and, in granting it, the court declared the law to be, that no permission could confer upon any person a right to improve except *in front* of his lot.

The 4th, 5th and 6th prayers of the defendant, (which will be found on the same page, and the following one,) relate to Liffey street. The court below, in granting the 4th prayer, did say, in effect, that Samuel Chase had, in him, the naked legal title to Liffey street; but that, as it was a public highway, by dedication and contract with the city, ejectment would not lie. In granting the 5th prayer, the court below again declared, that Liffey street had become a public street; and in granting the 7th prayer, the court merely decided, that ejectment would not lie for recovery of the naked fee in a public street. All these instructions were affirmed, on appeal. It is an express decision, by the Court of Appeals, upon the same state of case, as presented by the Record in this case, that Samuel Chase never acquired any title in the City Block, and that Liffey street was a public street of Baltimore city.

Now, it is very clear, that a decision, by a court of competent jurisdiction, in a cause before said court, is conclusive, upon the parties to said cause, upon any and every point, really in controversy in said cause, and adjudicated by the court. And although, as a general rule, a judgment in ejectment in favor of defendant does not avail to create an estoppel, inasmuch as the lessors of the plaintiff are not technically parties to such an action; yet the decision of the court, in an action of ejectment *upon the same state of case*, as presented in this record, should not be disregarded, in future controversies. It was an authoritative exposition of the law of Maryland, upon the very question of title, on which the Appellant now relies; upon the Acts of Assembly, ordinances, permissions and acts done, now relied on in this case. This Honorable Court, from comity, will regard that decision as conclusive.

We therefore rely on that decision, as clearly establishing, that Samuel Chase never had any title to the City Block, and, of course, that the appellant, who claims under him, by descent, and not otherwise, never acquired any title to the

same; and as further establishing that Liffey street, by contract and dedication, was a public street of the city of Baltimore. Hammond v. Inloes 4. Md. 138 Miles v. Cowdrell 2. Wallace 43.

5. Although the court below, in the ejectment suit, in granting the defendants' fourth prayer, and in assigning the *reasons* for granting that prayer, did consider that the plaintiff had shown title to Liffey street, it does not follow that the Court of Appeals, in affirming the granting of said prayer, affirmed it for *the reasons* assigned by the court below; and it cannot, therefore, be said, that it has been decided by *the Court of Appeals*, that the plaintiff had shewn title in Liffey street. But, if it were conceded that Samuel Chase had title in Liffey street, subject to its use as a public highway of the city, is that such a right as will entitle the appellant to *partition* in equity? If so, then mutual deeds would be necessary; and each tenant would be entitled to hold in severalty, and to have possession. It seems to us, that if the plaintiff has any title, it must be a *legal* title—a naked fee; and if it be not such a title as would justify a recovery in ejectment, it cannot be the subject matter of a bill in equity for partition.

See City of Cincinnati vs. White's Lessee, 6 Pet. 431.

Besides this, the value of a naked fee is merely nominal. (Moale vs. Mayor and City Council, 5 Md. Rep. 314,) and the circuit court, in a case not privileged, where the matter in controversy is less than $500, could not exercise jurisdiction upon a bill for partition. As to the street, therefore, (separately considered) the objection of want of value, applies in full force, even as respects the circuit court.

6. Nor does the bill present a proper case for an *account* in Equity.

It is not a case of mutual dealings; nor a case of any fiduciary relation; nor a case of receipt of money by the Mayor and City Council of Baltimore, in *the avowed character and capacity of tenant in common* with the complainant; nor upon any asserted priority of contract. The bill shews an adversary possession by the city, continuous, uninterrupted and notorious. The monies, alleged to have been received for wharfage and use of the property, were exacted and received by the city, *propria jure*, as owners, for a period dating back to 1818—fully thirty years, before this bill was exhibited. Nor is the bill a bill of discovery; but seeks relief.

See Phillips vs. Phillips, 9 Hare, 471.
Fowle vs. Lawrason, 5 Peters, 495.
1 Story's Eq. Jur., secs. 458, 459.

7. But, upon the merits, the appellant has no case for relief.

(1.) By force of the following Acts of Assembly, and the following ordinances of the city, the power of the corporation to grant or refuse permission to extend improvements into the basin, is absolute and exclusively conferred.

Charter of Maryland, secs. 4 and 16.
Act of 1729, chap. 12.
Act of 1732, chap. 14.
Act of 1745, chap. 9, sec. 10.
Act of 1747, chap. 21.
Act of 1750, chap. 11.
Act of 1765, chap. 2.
Act of 1779, chap. 20.
Act of 1789, chap. 39, sec. 4.
Act of 1796, chap. 68, sec. 10.

(2.) And it has been so decided by the Court of Appeals in the following cases.

Giraud's Lessee vs. Hughes, 1 G. & J., 249.
Dugan vs. Mayor, &c., 5 G. & J., 357.
Wilson's Lessee vs. Inloes, 11 G. & J., 351.

The wharf case, 3 Bl., 361.
Baltimore vs. McKim, 3 Bl. 453.
Casey's Lessee vs. Inloes, 1 Gill, 430.
City of Baltimore vs. White, 2 Gill, 444.

(3.) But the right of improvement can only be granted for extension into the water in front of the owners' property. If, therefore, Samuel Chase owned Liffey street, and even if he had obtained unconditional permission to extend into the water, the right of extension would be the right of prolongation of Liffey street for the width thereof, due south, and not otherwise. This would exclude the City Block entirely, as was decided in the case in the Court of Appeals, already referred to.

Same cases as above.

(4.) But the permission, granted to Samuel Chase by the ordinance of 20th March, 1804, refers, in terms, to the ordinance of 18th March, 1803, and is, in other particulars, conditional.

Now it is shewn, by the evidence of Mr. Hart, (page 57) that Mr. Chase *never did* complete the work. A part of that permission was left *unfinished and covered by water*, and so remained incomplete until the year 1818, after the death of Mr. Chase, when the city commenced the filling up of Liffey street.

Samuel Chase, however, in anticipation and expectation of the completion of the work, laid out the plat of ground, intended to be made, under said permission, into lots; and, on the plat, delineated a street called the Liffey, (not then constructed, except as to a small part,) and leased and conveyed the lots, as numbered on said plat, as binding on Liffey street.

See lease to Hart, page 59.
Deed to Samuel Chase, Jun., page 63
Deed to Samuel Chase, Jun , and Thomas Chase, page 65.
And other deeds, covered by an agreement of counsel, page 70.

We shall maintain that the performance of the *entire* work was a condition precedent to the vesting of any title to the ground proposed to be made, within the limits of the permission. As the prescribed "filling up" was not performed, no title vested in Mr. Chase.

Girard's Lessee vs. Hughes, 1 G. & Johns. 249.
Casey vs. Inloes, 1 Gill, 498.

But if he had any right, under said permission, it was effectually transferred, by said leases and deeds, to the lessees and grantees, or to the public. We say it was, by the dedication of the street, passed to the public, and when the city, at great cost, filled up Liffey street, it was doing what was necessary to be done, in order to make the dedicated street *available* for use by the public.

Our position is, that Samuel Chase, at the time of his death, had no descencible interest in Liffey street, as it had not been made in accordance with the permission; and hence the complainant did not, by inheritance, acquire any title in said street.

And further, that if, otherwise, any interest—even an inchoate right—had vested in Samuel Chase, it was parted with, and divested, by the leases and deeds aforesaid, made by him, in his lifetime, and by the sale of his reversionary rights, by Messrs. Meredith & Chase, after his death, as trustees.

Baltimore vs. White, 2 Gill, 456.

(5.) If, however, any person or persons had any right to oppose the action of the city authorities, in filling up Liffey street, south of Lee street, Samuel Chase, Jr., and Thomas

Chase were those persons; as they owned the lots, for the whole extent, fronting on Liffey street, south of Lee. On page 53 will be found their proposition to the city, dated 11th March, 1818, and on pages 50–52 will be found their cession of Liffey street to the Mayor and City Council of Baltimore, dated 13th August, 1818 Under that cession, without objection from any one, the city filled up the bed of Liffey street; and, subsequently, constructed the City Block.

(6.) As Liffey street was dedicated to the public, without any reservation of wharfage, at the end or east side of said street, the right of wharfage vested in the State as a public right. The "filling up" not having been completed, under the permission, no title vested in Mr. Chase, or his heirs; and the city was fully authorized, by law, to fill up Liffey street, and hold it as city property.

The Wharf case, 3 Bland, 380–383.
Act of 1783, chap. 24, secs. 9 and 10.
Act of 1796, chap. 68, sec. 9.
Dugan vs. Mayor, &c., 5 G. & J., 374–375.
Hammond vs. Inloes, 4 Md., 170–171.
Casey's Lessee vs. Inloes, 1 Gill, 501.
Giraud's Lessee vs. Hughes, 1 Gill & J., 265.
Act of 1817, chap. 148, secs. 9, 10, 11.

22. Eng. Com. Law Rep. 349
19. Iowa 223.
18. Iowa 186–193
1797. Ch 54. Sect 2
Mayor v. Sheffield 4. Wallace
Barclay v. Howell 6. Peters 498–513.
Notes to Dunston v. Payne 2. Smith. Lead Cas. - 232-3 — 242-3.

WM. SCHLEY,
WH H. NORRIS,
Counsel for Mayor and City Council of Baltimore.

No. 5—Explanations.

CHARLES R. BARNEY AND OTHERS
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE.

Ejectment in Baltimore County.

Locations on the part of the plaintiffs to September term, 1840:

I hereby certify that I have, pursuant to an order of Baltimore County Court, and in compliance with the instructions of G. L. Dulaney and Charles F. Mayer, Esqrs., counsel for the plaintiffs, made the following locations, to wit:

1st. Jones' Falls from Water street to the City Dock, by black double lines shaded blue.

2d. I have located the deed from Daniel Bowly to Samuel Chase, dated the 24th of August, 1796, from A, it being where the south line of Water street, as originally located, would intersect the west side of Jones' Falls, and running thence west, binding on said street to B, it being east one hundred and sixty feet from Market Space, then by a line drawn parallel with the west side of said Falls to the limits of the Port Warden's at C, it being where the line of the south side of Barre street would pass, then with said limits to Jones' Falls at D, then up the falls to the beginning at A, black lines shaded yellow.

3d. I have located the street reserved in the above mentioned deed of fifty feet wide, beginning at B, and running southerly to C, then easterly to E, then northerly to F, then to B, with the words "Concord Street" written therein.

4th. I have located a section of Water street, Pratt street, Bowly street and Wilkes street, with their respective names written therein.

5th. I have located the north-east corner of James Clark's old warehouse, mentioned in the deposition of Lewis Hart, a witness produced on the part of the plaintiff, at H, on the plat, and I have located the house built by said witness at the south-east intersection of Liffey and Pratt streets, by the oblong at G, colored red, and mentioned in his deposition.

6th. I have located Liffey street, as mentioned in the deposition of Lewis Hart, from H to G, to O, to red D, to A.

7th. I have located as the permission granted Samuel Chase, on the 2d day of April, 1804, by the Mayor and City Council of Baltimore, to extend his wharf to within fifty feet of the channel as follows, viz: beginning at red D and running to I, to J, to red E, then to red D.

8th. I have located Union Dock from Wilkes street to the basin, by black double lines shaded blue, and the words Union Dock written therein.

9th. I have located the logging of the wharf mentioned in the deposition of Lewis Hart, as having been made under his superintendance as agent of Samuel Chase, along Union Dock and the basin, from Q, to R, to S, and apart of which said wharf he had filled up.

10th. I have located the deed from Samuel Chase, Sr., to Samuel Chase, Jr., and Thomas Chase, dated the 18th of June, 1811, beginning at T and running to S, to R, to U, to V, to X, thence to T, black lines shaded yellow.

11th. I have located the Block commonly called the City Block, and mentioned in the deposition of Lewis Hart, from K to L, to M, to N, to I, to K, by black double lines inwardly,

shaded red, and outwardly, shaded blue, as having been filled up by the city.

12th. The point encircled with black over Y, is located to denote a stone, the beginning of the tract of land called Coles' Harbor.

13th. I have located a section of the first line of said tract from Y, west to Z, by a plain black line.

14th. I have located a line corresponding with the south side of Lee street, if extended easterly, from a to b.

No. 5—Explanations.

CHARLES R. BARNEY AND OTHERS
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE.

Ejectment in Baltimore County Court. Locations on the part of the Defendants to May Term 1841.

I hereby certify that I have, pursuant to an order of Baltimore County Court, and in compliance with the instructions of William L. Marshall and William Schley, Esqrs., counsel for the defendants, made the following locations, to wit:

1st. I have located, as the line of the west side of Jones' Falls, as established by the Port Wardens in 1794, from A to D.

2d. I have located the deed from Samuel Chase the elder, to Samuel Chase, Jr., dated the 27th of August, 1808, and recorded in Liber W.G., No.102, folio 5, &c., beginning at red B and running to T, thence west to X, at Concord street, and thence northerly on Concord street to red C, and thence to red B.

3d. I have located a lease from Samuel Chase to James Clarke, dated the 12th of November, 1798, and recorded in Liber W. G., No. 56, folio 459, &c., subject to the payment of the yearly rent of two hundred and sixty dollars, (and which said annuity was conveyed to Jas. Gittings by Samuel Chase, by deed, dated the 13th of September, 1802, and recorded in Liber W. G., No. 74, folio 49, &c.,) beginning at red A on Concord street near F, and running southerly on Concord street sixty feet to red 1, then easterly, parallel with Water street eighty-nine feet to red 2, at a public wharf forty feet wide,

called for in said lease, then running and bounding on the west side aforesaid public wharf sixty feet, to a point encircled with red, near H, then to red A.

4th. I have located a deed from Samuel Chase, Sr., to Samuel Chase, Jr., dated the 13th day of June, 1803, beginning on the east side of Concord street at red 1 on the plat, and running thence southerly on Concord street forty-seven feet to red 4, thence easterly to a public wharf on Jones' Falls of forty feet in width, eighty-nine feet to red 3, and running thence with said wharf twenty-eight feet to red 2, thence to red 1.

5th. I have located a deed from Samuel Chase and others to William Camp, dated the 13th of March, 1812, and recorded in Liber W. G., No. 117, folio 313, &c., beginning at red 4, on the east side of Concord street, and running thence southerly, bounding on Concord street thirty feet to red 6, thence eastwardly to the public wharf at red 5, thence northwardly on the said public wharf thirty feet to red 3, and thence to red 4.

6th. I have located a lease from Samuel Chase to Thomas Perkins, dated the 1st of October, 1807, and recorded in Liber W. G., No. 95, folio 237, &c., subject to the yearly payment of $120, (and which said annuity was conveyed by Jonathan Meredith and Richard M. Chase, trustees, to John McKim, on the 16th of July, 1818, and recorded in Liber W.G., No. 149, folio 32, &c.,) beginning at red 5 on the plat, it being on the west side of a public wharf along Jones' Falls forty feet in width, and running southerly with said public wharf thirty feet to red 7, then westerly eighty-nine feet to red 8, at Concord street, and then northerly on Concord street thirty feet to red 9, and then easterly eighty-nine feet to the beginning at red 5.

7th. I have located a lease from Samuel Chase to William Camp, dated the 28th of September, 1809, and recorded in Liber W. G., No. 105, folio 298, &c., subject to the payment

of the yearly rent of $120, (and which said annuity was conveyed by Jonathan Meredith and Richard M. Chase, trustees, to John McKim, on the 16th of July, 1818, and recorded in Liber W. G., No. 149, folio 32, &c.,) beginning on the east side of Concord street at red 8, and running thence easterly eighty-nine feet to red 7, on the west side of a public wharf of forty feet in width, than southerly, with said public wharf thirty feet to red 9, and then westerly eighty-nine feet to Concord street at red 10, and then northerly on Concord street thirty feet to the beginning at red 8.

8th. I have located a lease from Samuel Chase to John Morrow, dated the 1st day of November, 1807, and recorded in Liber W. G., No. 95, folio 771, &c., subject to the payment of the yearly rent of $160, (and which said annuity was conveyed by Jonathan Meredith and Richard M. Chase, trustees, to Rebecca Pue, on the 16th of July, 1818, and recorded in Liber W. G., No. 146, folio 640, &c.,) beginning for the out bounds of said two parcels, described in said lease at red 11, on the west side of the public wharf called for in said lease, and running northerly along the west side of said public wharf forty feet to red 9, thence westwardly to Concord street eighty-nine feet to red 10, then southerly on Concord street forty feet to red 12, then eastwardly eighty-nine feet to the beginning at red 11.

9th. I have located a deed from Samuel Chase to William Slater, dated the 12th day of January, 1803, and recorded in Liber W.G., No. 76, folio 579, &c., beginning at red F, it being at the northwest intersection of the public wharf called for in said deed and Pratt street, and running thence northerly, bounding on the west side of said public wharf seventy-nine feet to red 11, thence westerly thirty feet to red 13, thence southerly seventy-three to Pratt street at red 14, thence easterly to the beginning at red F.

10th. I have located the second described parcel of ground in the lease from Samuel Chase to Lewis Hart, dated the 21st day of October, 1806, and recorded in Liber W. G., No. 92, folio 83,&c., and which said lot was among other property conveyed by Jonathan Meredith and Richd. M. Chase, trustees, to Hannah K. Chase, by deed dated the 11th of October,1819, and recorded in Liber W. G., No. 152, folio 294, &c., beginning at G, and running thence southerly, bounding on Liffey street or the Liffey sixty feet to red 15, then easterly thirty feet to red 16, then northerly sixty-six feet to red 17, and thence to G.

11th. I have located the deed from Jonathan Meredith and Richard M. Chase, trustees, to Samuel Chase, Jr., dated the 28th of December, 1818, and recorded in Liber W. G., No. 150, folio 653, &c., beginning at red 15 on the plat, and running southerly, bounding on Liffey street thirty feet to red B, then westerly eighty-nine feet to Concord street at red C, then northerly, bounding on Concord street thirty feet to red 18, then easterly eighty-nine feet to the beginning at red 15.

12th. I have located as the ground conveyed by the deed from Samuel Chase and Thomas Chase, to the Mayor and City Council of Baltimore, dated the 13th of August, 1818, and recorded in Liber W. G., No. 147, folio 48, &c., from Water street southerly, to the basin, that is to say, from A westwardly to H, then southerly to S, at the water of the basin, then Southeasterly along the water of the basin to I, then northerly to A.

13th. I have made the following location as Liffey street, originally laid out by Samuel Chase, the elder, and as the same existed on the 18th of June, 1811; also, as the said street existed on the 11th of March, 1818; also, as the said street existed on the 13th of August, 1818; also, as the said street existed on the 18th of March, 1818, that is to say, beginning at A and running to H, to S, to I, thence to A.

14th. I have located as the public wharf on Jones' Falls, referred to in the leases from Samuel Chase to James Clark, Thomas Perkins, William Camp and John Morrow, and in the deeds from said Chase to Samuel Chase, Jr., and William Slater, as follows: beginning at A and running to H, to red F to red G, thence to A.

No. 2—Explanations.

CHARLES R. BARNEY AND OTHERS *vs.* THE MAYOR AND CITY COUNCIL OF BALTIMORE.	*Ejectment in Baltmore County Court. Locations on the part of the Plaintiffs to September*, 1840.

I hereby certify that I have, pursuant to an order of Baltimore County Court, and in compliance with the instructions of G. L. Dulaney and Charles F. Mayer, Esquires, counsel for the plaintiffs, made the following locations, to wit:

1st. Jones' Falls, from Water street to the City Dock, by black double lines, shaded blue.

2d. I have located the deed from Daniel Bowly to Samuel Chase, dated the 24th of August, 1796, from A, it being where the south line of Water street as originally located would intersect the west side of Jones' Falls, and running thence west, binding on said street to B, it being east 160 feet from Market space, then by a line drawn parallel with the west side of said falls to the limits of the Port Warden's line at C; it being where the line of the south side of Barre street would pass, then with said limits to Jones' Falls at D, then up the falls to the beginning at A—black lines, shaded yellow.

3d. I have located the street, reserved in the above mentioned deed of fifty feet wide, beginning at B and running southerly to C, then easterly to E, then northerly to F, then to B, with the words "Concord street" written therein.

4th. I have located a section of Water street, Pratt street, Bowly street and Wilkes street with their respective names written therein.

5th. I have located the north-east corner of James Clark's old warehouse, mentioned in the deposition of Lewis Hart, a witness produced on the part of the plaintiffs, at H on the plat. And I have located the house built by said witness at the south-east intersection of Liffey and Pratt streets, (by the oblong at G, colored red,) and mentioned in his deposition.

6th. I have located Liffey street, as mentioned in the deposition of Lewis Hart, from H to G, to O, to D, to A.

7th. I have located as the permission granted to Samuel Chase, on the second day of April, 1804, by the Mayor and City Council of Baltimore, to extend his wharf to within fifty feet of the channel, as follows, viz: Beginning at red D and running to I, to J, to red E, then to red D.

8th. I have located Union Dock, from Wilkes street to the Basin, by black double lines, shaded blue, and the words "Union Dock" written therein.

9th. I have located the logging of the wharf mentioned in the deposition of Lewis Hart, as having been made under his superintendance as agent of Samuel Chase, along Union Dock and the Basin from Q to R, to S, and a part of which said wharf he had filled up.

10th. I have located the deed from Samuel Chase, Sen., to Samuel Chase, Jr., and Thomas Chase, dated the 18th of June, 1811, beginning at T and running to S, to R, to U, to V, to X, thence to T, black lines, shaded yellow.

11th. I have located the Block, (commonly called the City Block, and mentioned in the deposition of Lewis Hart,) from K to L, to M, to N, to I, to K, by black double lines, inwardly shaded red and outwardly shaded blue, and as having been filled up by the city.

12th. The point encircled with black over Y is located to

denote a stone, the beginning of the tract of land called Cole's Harbor.

13th. I have located a section of the first line of said tract from Y west to Z, by a plain black line.

14th. I have located a line corresponding with the south side of Lee street, if extended easterly from a to b.

No. 2—Explanations.

CHARLES R. BARNEY AND OTHERS *vs.* THE MAYOR AND CITY COUNCIL OF BALTIMORE.	*Ejectment in Baltimore County Court. Locations on the part of the Defendants to May Term*, 1841.

I hereby certify that I have, pursuant to an order of Baltimore County Court, and in compliance with the instructions of Wm. L. Marshall and William Schley, Esquires, counsel for the defendants, made the following locations, to wit:

1st. I have located as the line of the west side of Jones' Falls, as established by the Port Wardens in 1794, from A to D.

2d. I have located the deed from Samuel Chase, the elder, to Samuel Chase, Jr., dated the 27th of August, 1808, and recorded in Liber W. G., No. 102, folio 5, &c., beginning at red B and running to T, thence west to X at Concord street, and thence northerly on Concord street to red C and thence to red B.

3d. I have located a lease from Samuel Chase to James Clark, dated the 12th of November, 1798, and recorded in Liber W. G., No. 56, folio 459, &c., subject to the payment of the yearly rent of $260, (and which said annuity was conveyed to James Gittings by Samuel Chase by deed dated the 13th of September, 1802, and recorded in Liber W. G., No. 74, folio 49, &c.) beginning at red A on Concord street near F, and running southerly on Concord street sixty feet to red 1, then easterly parallel with Water street eighty-nine feet to red 2 at a public wharf forty feet wide called for in said lease, then run-

ning and bounding on the west side of said public wharf sixty feet to a point encircled in the red near H, thence to red A.

4th. I have located a deed from Samuel Chase, Sr., to Samuel Chase, Jr., dated the 13th day of June, 1803, beginning on the east side of Concord street at red 1 on the plat, and running thence southerly on Concord street forty-seven feet to red 4, thence easterly to a public wharf on Jones' Falls, of forty feet in width, eighty-nine feet to red 3, and running thence with the said wharf twenty-eight feet to red 2, thence to red 1.

5th. I have located a deed from Samuel Chase and others to William Camp, dated the 13th of March, 1812, and recorded in Liber W. G., No. 117, folio 313, &c., beginning at red 4, on the east side of Concord street, and running thence southerly bounding on Concord street thirty feet to red 6, thence eastwardly to the public wharf at red 5, thence northwardly on the said public wharf thirty feet to red 3, and thence to red 4.

6th. I have located a lease from Samuel Chase to Thomas Perkins, dated the 1st day of October, 1807, and recorded in Liber W. G., No. 95, folio 237, &c., subject to the yearly rent of $120, (and which said annuity was conveyed by Jonathan Meredith and Richard M. Chase, trustees, to John McKim, on the 16th of July, 1818, and recorded in Liber W. G., No. 149, folio 32, &c.) beginning at red 5 on the plat, it being on the west side of a public wharf along Jones' Falls of forty feet in width, and running southerly with said public wharf thirty feet to red 7, then westerly eighty-nine feet to red 8, at Concord street, and then northerly on Concord street thirty feet to red 9, and then easterly eighty-nine feet to the beginning at red 5.

7th. I have located a lease from Samuel Chase to William Camp, dated the 28th of September, 1809, and recorded in Liber W. G., No. 105, folio 298, &c., subject to the payment of the yearly rent of $120, (and which said annuity was conveyed

by Jonathan Meredith and Richard M. Chase, trustees, to John McKim, on the 16th of July, 1818, and recorded in Liber W. G., No. 149, folio 32, &c.,) beginning on the east side of Concord street at red 8, and running thence easterly eighty-nine feet to red 7 on the west side of a public wharf of forty feet in width, then southerly with said public wharf thirty feet to red 9, and then westerly eighty-nine feet to Concord street at red 10, and then northerly on Concord street thirty feet to the beginning red at 8.

8th. I have located a lease from Samuel Chase to John Morrow, dated the 1st day of November, 1807, and recorded in Liber W. G., No. 95, folio 771, &c., subject to the payment of yearly rent of $160, (and which said annuity was conveyed by Jonathan Meredith and Richard M. Chase, trustees to Rebecca Pue, on the 16th day of July, 1818, and recorded in Liber W. G., No. 146, folio 640, &c.,) beginning for the out-bound of said two parcels described in said lease at red 11, on the west side, the public wharf called for in said lease, and running northerly along the west side of said public wharf forty feet to red 9, thence westwardly to Concord street eighty-nine feet to red 10, then southerly on Concord street forty feet to red 12, then eastwardly eighty-nine feet to the beginning at red 11.

9th. I have located a deed from Samuel Chase to William Slater, dated the 12th day of January, 1803, and recorded in Liber W. G., No. 76, folio 579, &c., beginning at F, it being at the north-west intersection of the public wharf called for in said deed and Pratt street, and running thence northerly, bounding on the west side of said public wharf seventy-nine feet to red 11, thence westerly thirty feet to red 13, thence southerly seventy-three feet to Pratt street at red 14, and thence easterly to the beginning at red F.

10th. I have located the second described parcel of ground in the lease from Samuel Chase to Lewis Hart, dated the 21st

day of October, 1806, and recorded in Liber W. G., No. 92, folio 83, &c., and which said Lot was among other property conveyed by Jonathan Meredith and Richard M. Chase, trustees of Hannah K. Chase, by deed dated the 11th day of October, 1819, and recorded in Liber W. G., No. 152, folio 294, &c , beginning at G, and running thence southerly, bounding on Liffey street or Liffey sixty feet to red 15, then easterly thirty feet to red 16, then northerly sixty-six feet to red 17, and thence to G.

11th. I have located the deed from Jonathan Meredith and Richard M. Chase, trustees to Samuel Chase, Jr., dated the 28th of December, 1818, and recorded in Liber W. G., No. 150, folio 653, &c., beginning at red 15 on the plat, and running southerly, bounding on Liffey street thirty feet to red B, then westerly eighty-nine feet to Concord street at red C, then northerly, bounding on Concord street thirty feet to red 18, then easterly eighty-nine feet to the beginning to red 15.

12th. I have located as the ground conveyed by the deed from Samuel Chase and Thomas Chase, to the Mayor and City Council of Baltimore, dated the 13th of August, 1818, and recorded in Liber W. G., No. 147, folio 48, &c., from Water street southerly to the basin, that is to say, from A westwardly to H, then southerly to S, at the water of the basin, then south-easterly along the water of the basin to I, then northerly to A.

13th. I have made the following location as Liffey street, originally laid out by Samuel Chase, the elder, and as the same existed on the 18th of June, 1811, also as the said street existed on the 11th of March, 1818, also as the said street existed on the 13th of August, 1818, also as the said street existed on the 18th of March, 1818, that is to say, beginning at A, and running to H, to S, to I, thence to A.

14th. I have located as the public wharf on Jones' Falls, referred to in the leases from Samuel Chase to James Clark, Thomas Perkins, William Camp and John Morrow, and in the deeds from said Chase to Samuel Chase, Jr., and William Slater, as follows: beginning at A, and running to H, to red F, to red G, thence to A.

IN THE SUPREME COURT U. S.

MARY BARNEY

vs.

THE CITY OF BALTIMORE ET AL.

This Bill was filed for a partition of what is called "The City Block" in Baltimore, and for an account of rents and profits thereof, by Mary Barney, a citizen of Delaware, against the City of Baltimore and six other Defendants, all of whom were citizens of Maryland, except Samuel Chase Ridgely, William G. Ridgely and Ann C. Ridgely, who were of the District of Columbia. Bill filed 28th September, 1848.

Record, p. 1.

The real contest is with the City of Baltimore, and the other Defendants were merely made parties because they were, at the filing of the original Bill, co-tenants in common with the Complainant, but not capable of suing with her as co-Plaintiffs, not being citizens of any place but Maryland and the District of Columbia. No relief was asked for against them, and their non-joinder would not have been material.

By an amended Bill, Ann Chase was added as a Defendant—(page 13;) and she dying, her devisees were made parties—(page 15.)

Eliza Coale, one of the Defendants, dying, her heirs were made Defendants—(page 16;) and William G. Ridgely having died, his heirs were made Defendants.

Record, page 81.

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Record, page 81.

An amended Bill states that Samuel Chase Ridgely was a citizen of Maryland at the filing of the original Bill, and not of the District of Columbia as stated; and that all the Defendants were citizens of Maryland, except William G. and Ann Ridgely, who did "*pendente lite*" convey all their interest to Samuel C. Ridgely, a citizen of Maryland, by deed duly executed, and the said grantee having died, his devisees conveyed all their right and title by deed to John G. Proud, a citizen of Maryland, who is made a Defendant—(Record, p. 23.)

See the Deeds, p. 23 and 24.

The answers of the new Defendants being filed, (pages 28 and 29,) an agreement was filed setting forth the pedigree, deaths, &c., of the parties in interest.

Record, p. 29.

This agreement (p. 30) concedes that "no consideration was paid by Proud for his said deed, which was made to remove a difficulty in the jurisdiction of the Court." And it was also admitted, that the deed of William G. Ridgely and others to S. C. Ridgely, "was without consideration, and to enable the Court to dispose of the case as if the grantors had no interest, &c., and that on the request of grantors, the property was to be reconveyed to them."

Record, p. 30–31.

It will thus be seen that, by conveyances made by non-resident parties who ceased to be Defendants, the legal title became vested in the present Defendants, all of whom are alleged to be citizens of Maryland: so that the jurisdiction of the Court attaches "*ratione personarum*," as of the date of the amended Bills, unless the objects of the conveyances should defeat them, and be considered as passing no title to the real estate.

And where new parties are introduced by way of amendment, it is to be considered a new suit, as to them, as from the date of the amendment.

Mitter vs. McIntire, 6 Peters, 61.

Alexander vs. Pendleton, 8 Cranch, 462.

1. The District parties properly stricken out by an amendment, as being beyond the jurisdiction of the Court. The authorities are clear to the point.

1 Peters, C. C, R., 431.
3 Wheat, p. 592.
2 McLean, E. C. R., 516.
4 McLean, p. 6, 11.
17 Howard's Rep., 141, 424.
2 Peters, 556.
7 Peters, 264.
57th Equity Rule of Supreme Court.

2. If, then, the Ridgelys, the District parties, being incapable of being sued with the other Defendants, be stricken out, and the jurisdiction of the Court, so far as the character of the parties is concerned, perfect, nevertheless, will the Court, upon the ordinary principles of Chancery law, proceed to decree in the absence of the Ridgelys, who have so essential an interest in the object of the bill, and are therefore generally necessary parties?

3. The rule upon this subject is, that the Circuit Court of the United States will proceed to a decree, as between the parties over whom it has jurisdiction, in the absence of one who, according to general equitable *principles*, is a *necessary* party in the same case, but over whom it has not jurisdiction, *when* it can pass an effective decree and where no decree is required as against the absent party.

7 Peters, 264.
2 Curtis, C. C. R., 171.
19 Howard, 113.
17 Howard's Rep., 140.
3 Wheat's Rep., 591.
11 Wheat's Rep., 132.
15 Howard, 233.

On this point we refer to the 22, 47, 49, 53, 54 rules of Supreme Court U. S. for Equity Practice; also to Act of Congress of 1839—Stat. at Large.

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4. The bill in this case is for a partition of land in which all the parties have an interest and title, as well as those in the District of Columbia as those in Delaware and Maryland. It is also for an account of rents and profits, or in the alternative that as to the block it may be abated as a nuisance to other property of the Complainant.

Now is there anything in the objects of the bill or in the character of the titles of the property mentioned in it, to render a decree for partition, or an account, or for an abatement of the block as a nuisance, ineffective or unjust to the absent party, or to render it necessary to pass a decree against him.

16 Howard, 329.
4 McLean's Rep., 6, 11.
17 Howard's Rep., 139, 424.

5. The Complainant, Mary Barney, as one of the *co-heirs* of her father, has a right to sue in the United States Courts upon her individual though undivided interest, and to secure a partition, or at least an account of rents and profits, with a view to payment of her share.

2 Peters, 564.
1 Peters' C. C. R., 431.
3 Wheat. 591.
9 " 738.
10 " 166–181.
11 " 132.
8 " 421–457.
12 " 197.

A decree for a division does not destroy the right of co-tenant in common—it merely fixes the territorial right of each tenant, leaving his title, though divided, the same—*each* has a right to the division against the consent of the others.

A decree as between the present parties would work no injustice or prejudice to the absent party—none to the present Defendants, over whom the Court has jurisdiction. The Mayor and City Council could be subject to no other inconvenience than of a second suit in another tribunal, which is no reason to refuse to decree in this case—for if it was, then in no instance of an absent party with substantial interest though separable, would this Court ever decree as between those before it over whom it had jurisdiction, because in every such case, some of the parties would be liable to another suit on the part of the absent party with a substantial interest; and yet the established doctrine is that the Circuit Court of the United States will not be ousted of its jurisdiction by the absence of a substantial party over whom it can exercise no power, if the interest, though substantial, *be separable*, from those before it.

An estate in common is in its nature separable, and capable of being divided and parted among the different tenants.

As to the account for rents and profits, that as an incident would follow the wake of the land itself.

Should all right to partition and to an account be denied for want of title in Complainants to the block, yet the alternative redress prayed in the bill for the abatement of the block might be decreed, and no decree need be passed against the absent Defendants in the District, and it would be so absolutely for their benefit that their acquiescence might be presumed, and there could be no reason for the Court's hesitating to decree on account of their absence.

6. But, suppose, that notwithstanding the grounds above suggested, the Court should come to the conclusion that it cannot, for want of jurisdiction over all the parties, or because of the absence of those in the District of Columbia, pass a decree in conformity with equitable principles, on account of the absence of necessary parties. Still, we shall contend that that interest is present, and may be acted upon under the following facts:

Samuel C. Ridgely, in his life time, was a party to this suit.

While thus a party in respect to his own title, William G. Ridgely and the other District parties conveyed all their interest to the property in dispute, by deed dated the 8th June, 1858.

By the will of S. C. Ridgely, he devised all his right and title to the parties in the District; the will bears date 11th June, 1858, d[illegible]

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By the will of S. C. Ridgely, he devised all his right and title to the parties in the District; the will bears date 11th June, 1858, d[illegible]

So that during the life of S. C. Ridgely, all the parties and all the interests were properly before the Court.

The Court having jurisdiction of all the parties, so far as their character in regard to citizenship was concerned, any change of residence, subsequently, will not oust that jurisdiction; so that the devisees of S. C. R. will stand in his shoes, although residents of the District.

2 Wheat., 290.
12 " 164.
8 Peters, p. 1.
6 McLean's Rep., 68.

7. But the Ridgelys in the District have conveyed all the property in dispute to *John G. Proud*, a citizen of Maryland, *a party to these proceedings*—so that the only parties now are Mrs. Barney, a citizen of Delaware, Complainant, with all the Defendants, citizens of Maryland—there can, therefore, be no doubt as to the jurisdiction of the Court over the parties and the cause.

2 Mason's C. C. Rep., 472–474.
11 Wheat., 132.

The deed to Proud was not with a view to give jurisdiction—that already existed between Mrs. B., a citizen of Delaware, and the Defendants, citizens of Maryland.

It only enables the Court profitably and efficiently to exercise its jurisdiction, existing previously and independently of the deed.

7 Cranch, 98.

And the motives of the deed are immaterial.

1 Peters, 623. 2 McLean, 516.
2 How., 198. 14 Peters, 65.

So much for the question of jurisdiction.

THE BILL IN THIS CASE

Charges that Samuel Chase, the elder, was seized in fee of the land, at his death, located on the plat as conveyed to him by Daniel Bowly, one part of which now is "the City Block," in Baltimore;

legislation of the State he was permitted to fill up and extend into the water his land, and to own the same in fee when so extended; that he made such extensions, and upon the west side of Jones' Falls located upon said extension and opened, as a public highway, the street described on the plat as Liffey street, retaining the fee therein, subject to the easement therein of the public as a highway; that thereafter he died, intestate, leaving the Complainant and the parties Defendants, named as such, his heirs-at-law; that prior to his death he granted to Samuel Chase the younger, and to Thomas Chase, his sons, portions of the land so conveyed to him by Bowly; and the deed, for which said portions were given, bounded upon and called for Liffey street; that his said sons so being made tenants in common with Complainant and the other Defendants, conveyed to said Mayor and City Council (deed Rec., P. 50, 1, &c.,) their title to the bed of said street, and which the City thereafter held in their stead as tenants in common (subject to the easement of the public highway) with Complainant and the remaining heirs of Samuel Chase the elder; that said Liffey street, on the east and south, binding on the water, the said Mayor and City Council walled up the same as public wharves, and have been receiving wharfage thereof, and at the south east corner thereof made an oblique extension of land into the water by filling up the same; and which extension is specified on the plat as the "City Block," of which said Mayor and City Council are in possession and now claiming sole ownership.

The bill charges that the tenancy in common with the Complainant and the other Defendants, still continues in the "City Block," and that an account of the rents and profits thereof, and also of the wharfage, should be taken and distributed among the tenants in common according to their respective interests; and which account and the right thereto is denied them by the city, and that if they, the Complainant and the remaining heirs of said Chase, have no rights in said City Block, then it is an irreparable nuisance to them and should be abated, but that being tenants in common thereof they are entitled to partition, and to a sale for the effecting thereof; because the same is not susceptible of partition; and that a sale for such purpose will be for the benefit of all interested, and the bill concludes with a prayer for relief in accordance with these allegations and pretensions.

The Mayor and City Council, the only resisting Defendants, admit the conveyance from Bowley to Chase the elder, and that the parties named are his heirs-at-law, and that he died intestate. They do not

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The bill charges that the tenancy in common with the Complainant and the other Defendants, still continues in the "City Block," and that an account of the rents and profits thereof, and also of the wharfage, should be taken and distributed among the tenants in common according to their respective interests; and which account and the right thereto is denied them by the city, and that if they, the Complainant and the remaining heirs of said Chase, have no rights in said City Block, then it is an irreparable nuisance to them and should be abated, but that being tenants in common thereof they are entitled to partition, and to a sale for the effecting thereof; because the same is not susceptible of partition; and that a sale for such purpose will be for the benefit of all interested, and the bill concludes with a prayer for relief in accordance with these allegations and pretensions.

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admit the filling up by Judge Chase as claimed; nor, if so, that the result was to vest in him the re-claimed land in fee. They do admit the conveyances as stated in the Bill from Chase the elder to Samuel Chase the younger and Thomas Chase, and from them to said City; but they assert a title paramount thereto to the bed of Liffey Street, by reason of its dedication by Chase the elder, as a public highway, and its extension and improvement by them prior to said conveyances to them by said Chase's (the sons.) They admit the extension of the City Block as stated, but with the acquiescence and free from the molestation of every body; and for many years, under such acquiescence, have used and occupied, and plead lapse of time and limitations. They deny all tenancy in common, or that said City Block is a nuisance, or obstruction to the alleged rights, such as the Court had any jurisdiction to abate. They admit themselves to be a corporation, and allege that Complainant and those under whom she claims, have long since conveyed away all their title to their lots binding on said streets, and none of them are now held by them, or any of them.

There were many amended and supplemental bills and bills of revivor in the progress of the cause, but as the same were made chiefly to perfect it as to parties, and to join in issue all the descendants and their heirs and grantees of Chase the elder, it is believed that any reference thereto is unnecessary, and would only serve to cloud the true points at issue. It is admitted, however, (Record, p. 83,) that one of said Defendants (Proud) was made such by deed from those entitled to a fractional interest in said property, and who were non-residents: and that such deed was without consideration, and made to remove supposed difficulties in the way of the jurisdiction of the Court.

The Appellant will contend, on the merits—

1. That the seizin of Chase the elder being undisputed, the prolongation of his land into the water by filling, as authorized by the Acts of Assembly and ordinances, vested in him the fee to such acquired land as extended.

Act of 1745, chap. 9.
1784, chap. 39, secs. 1 and 6.
1794, chap. 62.
1783, chap. 24, sec. 9. (April session.)
1817, chap. 148, secs. 9, 10 and 11.
Ordinances of City, 1826, p. 52–3.

2. That such being the case, subject to the easement in the public for a highway over the bed of Liffey Street, he in all other respects, retained his fee therein as completely as he had it in the remaining part.

Lade vs. Shepperd, 2 Strange, 1044.
Cincinnati vs. White, 6 Peters, 437.
Barclay vs. Howell, " " 513.
Harris vs. Elliott, 10 " 55.

3. That whether Samuel Chase the younger, and Thos. Chase became tenants in common of the bed of said street, subject to said easement, with said Chase the elder; and after his death, with the other Defendants claiming under him by the deeds from the elder Chase to said Thomas and Samuel, Junior, or by inheritance from their said father, is unimportant. They *were* tenants in common, or coparceners; and the Mayor and City Council claiming under their deeds, acquired only their estate, and are bound by all its incidents. The extension is to be regarded as made by the reparian proprietors, and the made land as annexed, under the Act of 1745, chap. 9, so far as it does not interfere with the public use of Liffey Street; and owing to the peculiar configuration of the land at the point in dispute, it being a peninsula as extended, bounded on the east by Jones' Falls, and on the south by the Patapsco River, the riparian proprietor could lawfully extend his land east or south into the water, and was not confined to the southern improvements. It will plainly appear that as "*terra firma*" was advanced southward along Liffey Street, it had the double effect of forcing back the east and west water line of the Patapsco River, and at the same time prolonging Jones' Falls *pari passu*, with the extension southwardly of Liffey Street, on the west of a similar extension southward on the east side of Jones' Falls, so as to extend Jones' Falls by artificial banks, and carry the stream half a mile southward, into what had formerly been the Patapsco river.

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4. That as tenants in common, in the absence of any proof of known ouster by them of their co-tenants, they cannot plead limitations.

VanBibber vs. Frazier, 17 Md. R., 451.
McClung vs. Ross, 5 Wheaton, 124.
Eckert vs. Zellers, 4 How., 289.
Also 2 G. & J., 173.

5. That Complainant, at the death of her father and the date of the improvement and possession by the City, was a married woman. (Vide admission—Record, 29 and 30.) Her husband died Nov., 1838. This Bill was filed Sept., 1848, within ten years after her disability ceased. Limitations could not commence during her disability, and she had full ten years to sue when discovert.

6. That all acts done by a tenant in common for the benefit of the common property, enure to the common benefit of all, upon contribution made for the cost thereof.

Van Horn vs. Fonda, 5 Johns. Chy. R., 407.
Rothwell vs. Dewees, 2 Black, R., 618.

7. That under the account prayed for in this bill such accounting would include this contribution; that not only the improvements erected on the City Block, but the wharves added by the city to the common property are subject to the incidents of an estate in common, and it results that by the artificial prolongation of the channel of Jones' Falls southward pari passu with the extension of Liffey street, the riparian proprietors holding its soil subject to the easement had necessarily an east front on Jones' Falls, as extended, and a south front on the Patapsco river, which it struck at right angles, and they could by the Act of 1745 extend further both east and west.

8. That the title of Complainant to the City Block, if any, being equitable, the matter is not cognizable in a Court of law, and Complainant could not be remitted to such a tribunal to try rights which it could not recognize, and that accounts for the inability to recover in ejectment.

Campbell vs. Lowe, 9 Md., C. R., 508.

R. J. BRENT,
GEO. H. WILLIAMS,
For Appellant.